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The Commonwealth of Massachusetts.

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RELATIVE TO

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Laws relative to Food and Drugs.

General Laws.

Revised Laws, 75.

Duties of State Department of Health relative to Sale of Food and Drugs.

Section 5. In the performance of its duties relative to the sale of drugs and food it may appoint inspectors, analysts and chemists, and may remove them. Such inspectors shall have the same power and authority relative to drugs and food as is given by sections forty-two and fifty-two of chapter fifty-six,[1] relative to milk, to the inspectors named therein. Whoever hinders, obstructs or in any way interferes with any such inspector, analyst or other officer appointed under the provisions of this section, while in the performance of his official duty, shall be punished by a fine of not more than fifty dollars for the first offence and of not more than one hundred dollars for each subsequent offence.

1882, 263, §§ 5, 7. 1884, 289, § 3. 1885, 352, § 5.

For a discussion of the relative authority of State and local inspectors, see Commonwealth *v.* Prince, 203 Mass. 602.

Acts of 1910, 394.

Powers of the Food and Drug Inspectors of the State Department of Health.

Inspectors of the state board of health, appointed under the provisions of section five of chapter seventy-five of the Revised Laws, shall have, in respect to milk, the power and authority conferred upon milk inspectors of cities and towns.

Acts of 1902, 110.

Duties relative to Inspection of Liquors.

Section 2. The powers and duties heretofore conferred and imposed on the inspector and assayer of liquors are hereby conferred and imposed on the state board of health.

Acts of 1914, 484.

The Analyzing of Intoxicating Liquors.

Section 1. The state board of health shall hereafter analyze all samples of intoxicating liquors submitted to it for that purpose by any licensing authority, board of health, or police department of any city or town. Such analysis shall be made for the purpose of ascertaining the presence of any poisons, drugs or other substances dangerous to health.

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[1] See pages 25, 41.

Acts of 1910, 495.

The State Department of Health to make Analyses of Drugs and Poisons in Certain Cases.

Section 1. The state board of health shall make, free of charge, a chemical analysis of cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salt or compound thereof, and of any poison, drug, medicine or chemical, when submitted to it by police authorities or by such incorporated charitable organizations in the commonwealth, as the state board of health shall approve for this purpose: *provided,* that said board is satisfied that the analysis is to be used for the enforcement of law.

Section 2 (as amended by General Acts of 1915, 104). The analyst, or an assistant analyst of the state department of health shall, upon request, furnish a signed certificate under oath of the result of the analysis provided for in section one to any police officer or any agent of an incorporated charitable organization, and the presentation of such certificate to the court by any police officer or agent of any such organization shall be prima facie evidence that all the requirements and provisions of section one have been duly complied with. This certificate shall be sworn to before a justice of the peace or notary public, and the jurat shall contain an allegation that the subscriber is the analyst or an assistant analyst of the state department of health, and when properly executed shall be prima facie evidence of the composition and quality of the drugs analyzed, and the court shall take judicial notice of the signature of the analyst or assistant analyst, and of the fact that he is such.

Acts of 1902, 272.

Shall publish Analyses and Other Information concerning Adulterated Food.

Section 1. The state board of health shall cause to be published as often as once each month in the official publication of said board, and also, if in its opinion the public health can be served thereby, may cause to be published in one or more papers in Massachusetts, a certificate of the examination or analysis made by authority of said board during the preceding month of any article of food manufactured or offered for sale in the commonwealth, which is adulterated within the meaning of chapter seventy-five of the Revised Laws; and said board of health shall also cause to be published, with such certificate of examination, a statement of the trade-mark, brand mark or name, with the name and place of business of the manufacturer, which appear upon the package or box containing such adulterated article, or with the name and place of business of the wholesale dealer of whom the goods were obtained.

REVISED LAWS, 75.

Appropriation for Enforcement of Food and Drug Law.

SECTION 6 (as amended by 1903, 467, and by 1907, 208). The state board of health may annually expend not more than eleven[1] thousand five hundred dollars for the enforcement of the provisions of sections sixteen to twenty-seven, inclusive; but not less than three-fifths of said amount shall be annually expended for the enforcement of the laws against the adulteration of milk and milk products.

1882, 263, § 5. 1883, 263, § 1. 1884, 289, § 1. 1891, 319.

State Department of Health shall report annually on Prosecutions and Expenditures.

SECTION 7. Said board shall annually report to the general court the number of prosecutions made under the provisions of sections sixteen to twenty-seven, inclusive, and an itemized account of the money expended in carrying out the provisions thereof. 1884, 289, § 2.

Sale of Adulterated Foods and Drugs forbidden.

SECTION 16 (as amended by 1903, 367). No person shall manufacture, offer for sale or sell, within this commonwealth, any drug or article of food which is adulterated within the meaning of section eighteen; but no employee, other than a manager or superintendent, shall be punished for a violation of this section unless such violation was intentional on the part of the said employee. 1882, 263, § 1. 1897, 344, § 1.

Drugs and Foods defined.

SECTION 17. The term "drug" as used in sections sixteen to twenty-seven, inclusive, shall include all medicines for internal or external use, antiseptics, disinfectants and cosmetics. The term "food" as used therein shall include all articles, simple, mixed or compound, used in food or drink by man.

1882, 263, § 2. 1886, 171. 1897, 344, § 2.

Adulteration defined.

SECTION 18 (as amended by 1910, 528, § 1, and by 1913, 272). A drug shall be deemed to be adulterated: 1. If, when sold under or by a name recognized in the United States pharmacopœia, it differs from the standard of strength, quality or purity prescribed therein, unless the order therefor requires an article inferior to such standard or unless such difference is made known or so appears to the purchaser at the time of the sale. 2. If, when sold under or by a name not recognized in the United

[1] Increased to seventeen by 1911, 296.

States pharmacopœia but which is found in some other pharmacopœia or other standard work on materia medica, it differs materially from the standard of strength, quality or purity prescribed in such work. 3. If its strength, quality or purity differs materially from the professed standard under which it is sold.

Food shall be deemed to be adulterated: 1. If any substance has been mixed with it so as to reduce, depreciate or injuriously affect its quality, strength or purity. 2. If an inferior or cheaper substance has been substituted for it wholly or in part. 3. If any valuable or necessary constituents or ingredients have been wholly or in part taken from it. 4. If it is in imitation of or is sold under the name of another article. 5. If it consists wholly or in part of a diseased, decomposed, putrid, tainted or rotten animal or vegetable substance or article, whether manufactured or not, or in case of milk, if it is produced by a diseased animal. 6. If it is colored, coated, polished or powdered in such a manner as to conceal its damaged or inferior condition, or if by any means it is made to appear better or of greater value than it is. 7. If it contains any added substance or ingredient which is poisonous or injurious to health. 8. If it contains any added antiseptic or preservative substance, except common table salt, saltpetre, cane sugar, alcohol, vinegar, spices, or, in smoked food, the natural products of the smoking process; but this paragraph shall not be construed as permitting the use of cane sugar in maple syrup, maple sugar, honey, cocoa, or any other food product in which the presence of cane sugar as a preservative is unnecessary. Furthermore, the provisions of this definition shall not apply to any such article if it bears a label on which the presence and the percentage of every such antiseptic or preservative substance are clearly indicated, nor shall it apply to such portions of suitable preservative substances as are used as a surface application for preserving dried fish or meat, or as exist in animal or vegetable tissues as a natural component thereof, but it shall apply to additional quantities.[1] The provisions of this and the two preceding sections relative to food shall not apply to mixtures or compounds not injurious to health and which are recognized as ordinary articles or ingredients of articles of food, if every package sold or offered for sale is distinctly labelled as a mixture or compound with the name and per cent of each ingredient therein.

1882, 263, § 3. 1884, 289, §§ 5, 7. 1897, 344, § 3. 1901, 341.

A sale of "blended maple sugar," which is a well-known article in the trade in which the parties are engaged, is not a sale of adulterated food within the meanings of sections 16 to 18 if it has been ordered as a mixture. In such a case the failure to label the package is not a violation of the statute. Adams *v.* N. E. Maple Syrup Co., 210 Mass. 475.

A syrup with a label which does not contain the word "maple" is not within the fourth clause as an imitation of maple syrup. In the eighth

[1] A provision applicable only during the year 1902 is omitted.

clause the words "in which the presence of cane sugar as a preservative is unnecessary" do not apply to any of the preceding words except "any other food product;" therefore the use of cane sugar as a preservative with any of the articles mentioned is forbidden unless the conditions of the clause are complied with. Commonwealth *v.* N. E. Maple Syrup Co., 217 Mass. 432.

Requirements concerning Labels for "Compounds" and chemically Preserved Foods.

SECTION 19. If a statement of any of the ingredients of an article of food or drink or of an article entering into food or drink is required by law to be stated upon the label of such article, such statement and the name and address of the manufacturer or vendor of the article shall be distinctly and conspicuously printed on the label in straight, parallel lines of plain, uncondensed, legible type, well spaced on a plain ground. The statement of ingredients shall be clearly separated from and not interspersed or confused with other matter, shall specify every such ingredient by its ordinary name, and shall be in the English language. The letters of said type shall be not less than one-twelfth of an inch long, and shall be larger than those of any other printed matter on the label or package, except the name of the compound or chief article enclosed therein which may be in larger type. The required label shall be firmly attached to or printed on the exterior of the package or envelope of the said article, on the top or side thereof and in plain sight. But the state board of health may in writing approve specific labels not strictly in accordance with the above provisions, if it is of opinion that the information required by law is set forth thereon clearly enough for the reasonable protection of the purchaser. Goods labelled in violation of the provisions of this section shall be subject to the provisions of law relative to adulteration of food which is unlabelled.[1] 1901, 396, §§ 1-3, 5.

ACTS OF 1906, 386.

Patent or Proprietary Medicines or Foods.

SECTION 1 (as amended by 1907, 259, § 1). Upon every package, bottle or other receptacle holding any proprietary or patent medicine, or any proprietary or patent food preparation, which contains alcohol, morphine, codeine, opium, heroin, chloroform, cannibis indica, chloral hydrate, or acetanilid, or any derivative or preparation of any such substances, shall be marked or inscribed a statement on the label of the quantity or proportion of each of said substances contained therein. The size of type in which the names of the above substances shall be printed on the labels as above, shall not be smaller than eight point (brevier) caps: *provided,* that in case the size of the package will not permit the use of eight point cap type the size of the type may be reduced proportionately. The provisions of section nineteen of chapter seventy-five of

[1] A provision applicable only during the year 1902 is omitted.

the Revised Laws,[1] so far as they are consistent herewith, shall apply to the manner and form in which such statements shall be marked or inscribed.

The law applies to fractional parts of packages of medicines, etc. 3 Op. Atty.-Gen. 180.

The section is complied with if the statement is inscribed upon the pasteboard wrapper of a bottle provided the bottle is in the wrapper when it is sold or offered for sale. 3 Op. Atty.-Gen. 216.

Section 2 (as amended by 1907, 259, § 2). No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber or manufacturer residing in this commonwealth, from whom he purchases such articles, to the effect that the same is not misbranded within the meaning of this act, designating it. Such guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer; and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of this act. [Note. — Superseded by 1911, 289 (p. 10).]

Section 6. Whoever manufactures, sells or offers for sale any medicine or food preparation in violation of the provisions of this act shall be punished by a fine of not less than five nor more than one hundred dollars. It shall be the duty of the state board of health to cause the prosecution of all persons violating the provisions of this act; but no prosecution shall be brought for the sale at retail, or for the gift or exchange of any patent or proprietary medicine or food preparation containing any drug or preparation the sale of which is prohibited or restricted as aforesaid, unless the said board has, prior to such sale, gift or exchange, given public notice in such trade journals or newspapers as it may select that the gift, exchange or sale at retail of the said medicine or food preparation would be contrary to law.

Revised Laws, 75.

Samples for Analysis shall be furnished.

Section 20. Whoever offers or exposes for sale or delivers to a purchaser any drug or article of food shall, upon application of an inspector, analyst or other officer or agent of the state board of health and upon tender to him of the value thereof, furnish a sample sufficient for the analysis of any such drug or article of food which is in his possession.

1882, 263, § 6.

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[1] *Supra.*

Portion of Sample to be reserved and sealed.

SECTION 21. Before such sample is analyzed, a portion thereof shall be reserved and sealed by the analyst; and, upon a complaint against any person, such reserved portion shall, upon application, be delivered to the defendant or his attorney. 1884, 289, § 8.

Canned Goods must be marked as to Grade.

SECTION 22. Canned articles of food shall not be offered for sale unless they bear a mark to indicate the grade or quality thereof and the name and address of the person who packed or who sells them.

1897, 344, § 1.

Soaked Canned Goods must be so marked.

SECTION 23 (as amended by 1910, 528, § 2). All canned articles of food which have been prepared from dry products and have been soaked before canning shall be plainly marked by an adhesive label having on its face the word "*soaked*" in letters of legible type not smaller than two line pica. All cans, jugs and other packages containing molasses shall be plainly marked by an adhesive label having on its face the name and address of the person who made and prepared the same with the name and quality of the ingredients thereof in letters of the size and description aforesaid. 1897, 344, § 5.

Penalties.

SECTION 24 (as amended by 1905, 236, by 1906, 305, and by 1913, 795). Whoever falsely stamps or labels any cans, jars or other packages containing fruit or food of any kind, or permits such stamping or labelling, or, except as hereinafter provided, violates any of the provisions of sections sixteen to twenty-seven, inclusive, shall be punished by a fine of not less than twenty-five nor more than five hundred dollars; and whoever knowingly sells such goods so falsely stamped or labeled shall be punished by a fine of not less than ten nor more than one hundred dollars.

1882, 263, § 7. 1897, 344, § 6.

Prosecution as to Pharmacopœial Drugs limited.

SECTION 27. If the standard of strength or purity of any drug has been raised since the issue of the last edition of the United States pharmacopœia, no prosecution relative to it shall be maintained until such change of standard has been published throughout the commonwealth.

1882, 263, § 4. 1884, 289, § 5.

Acts of 1910, 416.

Prosecutions under the Laws relative to Adulterated Drugs and Food.

Section 1. No prosecution shall be begun under sections sixteen to twenty-seven, inclusive, of chapter seventy-five of the Revised Laws, for the manufacture, sale or offering for sale of drugs, unless the person purchasing the drug or taking the drug without purchasing shall seal and deliver to the owner or person from whom such drug is purchased or taken a portion of the drug so purchased or taken; and a receipt therefor shall be given to the collector. The drug so purchased or taken shall thereafter be analyzed or tested under the direction of the state board of health for the purpose of determining whether it comes within the provisions of the sections above mentioned.

Section 2. If it appears that any provision of the said sections has been violated, the said board may direct or authorize formal complaint to be made to a court or justice having jurisdiction in such cases; but no evidence of the result of said analysis or test shall be received if the collector refuses or neglects to seal and deliver a portion of the drug purchased or taken as aforesaid to the owner or person from whose possession it is taken.

Acts of 1911, 289.

Prosecutions for selling Adulterated or Misbranded Articles of Food or Drugs.

Section 1. No dealer shall be prosecuted under the provisions of sections sixteen to twenty-six, inclusive, of chapter seventy-five of the Revised Laws, or of any act supplementary thereto or amendatory thereof, for selling, exposing for sale, or having in his custody or possession with intent to sell, any article of food or any drug or medicine which has been adulterated or misbranded contrary to the laws of this commonwealth, or which contains any substance, the use of which in food or in drugs is forbidden by the laws of this commonwealth, if he can establish a guaranty signed by the manufacturer, wholesaler, or jobber within this commonwealth from whom he purchased the said article, drug or medicine, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating the act. Such guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in that case such party or parties shall be subject to the prosecution, fine or other penalties which would attach in due course to the dealer under the provisions of the sections aforesaid.

Section 2. So much of chapter seventy-five of the Revised Laws as is inconsistent herewith is hereby repealed.

Drugs.

Acts of 1907, 180.

Public Distribution of Harmful Drugs prohibited.

Section 1. No person shall distribute, deliver or give away in any public street or highway or from house to house or place to place, any bottle, box, envelope or package containing any liquid, medicine, pill, powder, tablet or other article which is composed of any drug, poison or other ingredient or substance which may be in any way injurious or harmful to any child or other person who may taste, eat, drink or otherwise use the same.

Penalty.

Section 2. Whoever violates the provisions of this act shall be punished by a fine of not less than fifty nor more than one hundred dollars.

Acts of 1910, 387.

The Sale of Cocaine.

Section 1. It shall be unlawful for any person, firm or corporation to manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine, or any of its salts, or alpha or beta eucaine, or any of their salts, or any synthetic substitute for them.

Section 7. If a person makes complaint under oath to a police, district, or municipal court, or to a trial justice or justice of the peace authorized to issue warrants in criminal cases, that he has reason to believe or does believe that cocaine or alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof are kept or deposited by a person named therein in a store, shop, warehouse, building, vehicle, steamboat, vessel or place, other than by a manufacturer or jobber, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, employees of incorporated hospitals or those who are entitled by law to have possession of any of the above mentioned articles, such court or justice, if it appears that there is probable cause to believe that said complaint is true, shall issue a search warrant to a sheriff, deputy sheriff, city marshal, chief of police, deputy marshal, police officer or constable commanding him to search the premises in which it is alleged that such cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof are kept or deposited, and to seize such cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof and securely keep the same until final action, and to arrest the person or persons in whose possession it is found, together with all persons present, and to return the warrant with his doings thereon as soon as may be to a court or trial justice hav-

ing jurisdiction in the place in which such cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof are alleged to be kept or deposited.

SECTION 8. If, after such notice as the court or trial justice shall order, it appears that the cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, seized according to the provisions of section seven of this act, was, at the time of making the complaint, in the possession of the person alleged therein in violation of law, the court or trial justice shall render judgment that such and so much of the cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, so seized as was so unlawfully kept, shall be forfeited to the commonwealth, and shall, by the authority of the written order of the court or trial justice, be forwarded by a common carrier to the state board of health, which upon receipt of the same, shall notify said court or justice thereof. The said board shall sell the same, and after paying the cost of the transportation of the said cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, it shall pay over the net proceeds to the treasurer and receiver general.

SECTION 9. It shall be the duty of the state board of health to cause the prosecution of all persons violating the provisions of this act, but no prosecutions shall be brought against any wholesale or retail druggist for the sale or for the gift or the exchange of any patent or proprietary preparation containing cocaine or alpha or beta eucaine, or any synthetic substitute for them, unless the said board has, prior to such sale, gift or exchange, given public notice in some trade journal that the gift, sale or exchange of the said patent or proprietary preparations, naming them, would be contrary to law.

GENERAL ACTS OF 1915, 187.

The Sale and Distribution of Narcotic Drugs.

SECTION 1. It shall be unlawful for any person, firm or corporation to sell, furnish, give away or deliver coca leaves or any cocaine or any alpha or beta eucaine or any synthetic substitute for them, or any salts, compound or derivative thereof, except decocainized coca leaves and preparations thereof, or any opium, morphine, heroin, codeine or any preparation thereof, or any salt, compound or derivative of the same, except upon the written order of a manufacturer or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, physician, dentist, veterinarian, registered under the laws of the state in which he resides, or an incorporated hospital, college or scientific institution through its superintendent or official in immediate charge, or upon the written prescription of a physician, dentist or veterinarian, registered

under the laws of the state in which he resides, bearing the date when signed, his office address, the registry number given him under public acts two hundred and twenty-three of the sixty-third congress, approved December seventeenth, nineteen hundred and fourteen, the legal signature of the physician, dentist or veterinarian giving it, the name and address of the patient for whom prescribed, which prescription, when filled, shall show the date of filling and shall be retained on file by the druggist filling it for a period of at least two years. The prescription shall not again be filled, nor shall a copy of the same be made, except for the purpose of record by the druggist filling the same, and it shall at all times be open to inspection by the officers of the state department of health, the board of registration in pharmacy, the board of registration in medicine and the authorized agents of said department and boards, and by the police authorities and police officers of cities and towns: *provided, however,* that the provisions of this act shall not apply to prescriptions nor to the sale, distribution, giving away or dispensing or possession of preparations or remedies, if such prescriptions, preparations and remedies do not contain more than two grains of opium or more than one quarter of a grain of morphine, or more than one eighth of a grain of heroin or more than one grain of codeine, or any salt, compound or derivative of any of them in one fluid ounce, or, if a solid or semi-solid preparation, in the avoirdupois ounce; nor to liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or derivatives, or any synthetic substitute for them: *provided,* that such preparations, remedies or prescriptions are sold, distributed, given away or dispensed or in possession in good faith as medicines and not for the purpose of evading the provisions of this act; and *provided, further,* that the possession of any of the drugs mentioned in this act, except prescriptions and preparations or remedies especially exempted in this section, by any one not being a manufacturer or jobber of drugs, or wholesale druggist, registered pharmacist, actively engaged in business as such, or a physician, dentist or veterinarian, registered under the laws of the state in which he resides, or superintendent or official in charge of an incorporated hospital, college or scientific institution shall be presumptive evidence that such possession was a violation of this act. The provisions of this section shall not apply to persons having in their possession any of the above mentioned articles by virtue of a legal prescription therefor, nor shall the provisions of this act apply to decocainized coca leaves or preparations made therefrom or to other preparations of coca leaves which do not contain cocaine.

Section 2. It shall be unlawful for any practitioner of veterinary medicine or surgery to prescribe any of the drugs mentioned in section one of this act for the use of a human being, and it shall be unlawful for any physician or dentist to prescribe, sell, give away or deliver any coca

leaves or any cocaine or any alpha or beta eucaine or any compound, derivative or synthetic substitute for them, or opium, morphine, heroin, codeine or any preparation thereof, or any salt, compound or derivative of said substances to any person known to such physician or dentist to be an habitual user of those drugs, except when the drug is obviously needed for therapeutic purposes.

SECTION 3. The provisions of this act shall not be construed to prevent any lawfully authorized practitioner of medicine, dentistry, or veterinary medicine from prescribing, administering, dispensing or distributing any of the drugs mentioned in this act that may be indicated for any patient under his care: *provided,* that such prescribing, administering, dispensing, or distributing is not for the purpose of evading the provisions of this act; and *provided, further,* that every physician, dentist or veterinarian shall, within twenty-four hours after such administering, dispensing or distributing, make a record in a book kept by him solely for that purpose of the date, the name and address of the patient to whom administered, dispensed or distributed, and the quantity and kind of such drug administered, dispensed or distributed, and *provided, further,* that such record shall not be required where the physician, dentist or veterinarian administers, dispenses or distributes any of the drugs mentioned in this act to a patient on whom he personally attends. Each page of the book shall be ruled and kept in substantially the following form: —

Name of Physician or Dentist (sign in full on each page).

Date.	NAME OF PERSON TO WHOM DISPENSED.	Address.	Drugs dispensed.	Amount dispensed.

Provided, however, that any form of record approved or required by the commissioner of internal revenue under and by virtue of public acts two hundred and twenty-three of the sixty-third congress, approved December seventeenth, nineteen hundred and fourteen, shall be deemed a sufficient record to comply with the requirements of this act. This record shall be at all times open to inspection by the state department of health, the board of registration in pharmacy, the board of registration in medicine and the authorized agents of said department and boards, and by the police authorities and police officers of cities and towns.

SECTION 4. Any manufacturer or jobber of drugs, and any wholesale druggist and any registered pharmacist actively engaged in business as such, any physician, dentist or veterinarian registered under the laws of the state in which he resides may sell coca leaves, cocaine or any alpha or beta eucaine or any synthetic substitute for them or any preparation

containing the same, or any salts, compound or derivative thereof, or any opium, morphine, codeine, heroin or any preparation thereof, or any salt or compound or derivative of such substances, to any manufacturer or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, or physician, dentist or veterinarian registered under the laws of the state in which he resides, or to any incorporated hospital, college or scientific institution, but such substances or preparations, excepting such preparations as are included within the exemptions set forth in section one, shall be sold only upon the written order of an incorporated hospital, college or scientific institution, duly signed by its superintendent or official in immediate charge, or upon a written order duly signed by such manufacturer or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, or physician, dentist or veterinarian registered under the laws of the state in which he resides, which order shall state the article or articles ordered, the quantity ordered and the date. The said orders shall be kept on file in the laboratory, warehouse, pharmacy or store in which they are filled by the proprietor thereof or his successors for a period of not less than two years after the date of delivery, and shall be at all times open to inspection by the state department of health, the board of registration in pharmacy, the board of registration in medicine and the authorized agents of said department and boards, and by the police authorities and police officers of cities and towns.

Section 5. Any manufacturer or jobber in drugs and any wholesale druggist and any registered pharmacist actively engaged in business as such, physician, dentist or veterinarian registered under the laws of the state in which he resides, and any incorporated hospital, college or scientific institution through its superintendent or official in immediate charge that shall give an order for any of the aforesaid drugs in accordance herewith shall preserve a duplicate thereof for a period of two years after the date of giving the same, which shall at all times be open to inspection by the state department of health, members of the board of registration in pharmacy, the board of registration in medicine and the authorized agents of said department and boards, and by the police authorities and police officers of cities and towns. The order now or hereafter required by the regulations of the commissioner of internal revenue under and by virtue of public acts number two hundred and twenty-three of the sixty-third congress, approved December seventeenth, nineteen hundred and fourteen, shall be deemed to be a sufficient order to comply with this and the preceding section.

Section 6. Any person who, for the purpose of evading or assisting in the evasion of any provision of this act shall falsely represent that he is a physician, dentist or veterinarian, or that he is a manufacturer or jobber in drugs or wholesale druggist or pharmacist actively engaged in business as such, or that he is superintendent or official in immediate charge of an

incorporated hospital, college or scientific institution, or a person registered under public act two hundred and twenty-three of the sixty-third congress, approved December seventeenth, nineteen hundred and fourteen, or who, not being an authorized physician, dentist or veterinarian, makes or alters a prescription for any of the substances above mentioned shall be deemed guilty of a violation of this act.

SECTION 7. The possession of a federal certificate issued under and by virtue of public act number two hundred and twenty-three of the sixty-third congress, approved December seventeenth, nineteen hundred and fourteen, by any person shall be prima facie evidence of an intent to sell, furnish, give away or deliver any of the drugs enumerated in this act.

SECTION 8. Nothing in this act shall apply to common carriers engaged in transporting the aforesaid drugs or to any employee, acting within the scope of his employment, of any person who shall lawfully be in possession, for the purpose of delivery, of any of the drugs mentioned in this act, or to any person who shall deliver any such drug which has been prescribed or dispensed by a physician, dentist or veterinarian registered under the laws of the state in which he resides who has been employed to prescribe for the particular patient receiving such drug, or to a nurse under the supervision of a physician, dentist or veterinarian having possession or control by virtue of his employment or occupation and not on his own account, or to the possession of any of the aforesaid drugs which have been prescribed in good faith by a physician, dentist or veterinarian, or to any United States, state, county, municipal, district, territorial or insular officer or official who has possession of any of said drugs by reason of his official duties, or who, as an officer or duly appointed agent of any incorporated society for the suppression of vice, has the same in his possession for the purpose of assisting in the prosecution of violations of this act.

SECTION 9. The provisions of this act, except those sections which require the ordering of the above enumerated drugs on an official order blank and the keeping of the same on file, and the keeping of the record relative thereto, shall apply to cannabis indica and cannabis sativa, except that the same shall not apply to prescriptions, preparations or remedies which do not contain more than one half grain of extract of cannabis indica or more than one half grain of extract of cannabis sativa in one fluid ounce, or if a solid or semi-solid preparation in the avoirdupois ounce, nor to liniments, ointments or other preparations containing cannabis indica and cannabis sativa, which are prepared for external use only.

SECTION 10. The repeal of any law by this act shall not affect any action, suit or prosecution pending at the time of the repeal for an offense committed, or for the recovery of a penalty, or forfeiture incurred, under any of the laws repealed.

SECTION 11. Whoever violates any provision of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than

one thousand dollars, or by imprisonment in the house of correction or jail for a term not exceeding one year, or by both such fine and imprisonment.

SECTION 12. Chapters six hundred and ninety-four and seven hundred and eighty-eight of the acts of the year nineteen hundred and fourteen, and sections two to six, inclusive, of chapter three hundred and eighty-seven of the acts of the year nineteen hundred and ten, are hereby repealed.

ACTS OF 1911, 372.

The Issuance of Search Warrants for Hypnotic Drugs and the Arrest of those present.

SECTION 1 (as amended by 1912, 283, § 1, and by General Acts of 1915, 159). If a person makes complaint under oath to a police, district, or municipal court, or to a trial justice or justice of the peace authorized to issue warrants in criminal cases, that he has reason to believe that opium, morphine, heroin, codeine, cannabis indica, cannabis sativa or any other hypnotic drug or any salt, compound or preparation of said substances, or cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, is kept or deposited by a person named therein in a store, shop, warehouse, building, vehicle, steamboat, vessel or place other than by a manufacturer or jobber, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, registered nurse, employees of incorporated hospitals, or a common carrier or porter when transporting any drug mentioned herein between parties hereinbefore mentioned, such court or justice, if it appears that there is probable cause to believe that said complaint is true, shall issue a search warrant to a sheriff, deputy sheriff, city marshal, chief of police, deputy marshal, police officer or constable commanding him to search the premises in which it is alleged that such opium, morphine, heroin, codeine, cannabis indica, cannabis sativa or any other hypnotic drug or any salt or compound or preparation of said substances or any preparation containing the same is kept or deposited, and to seize and securely keep the same until final action, and to arrest the person or persons in whose possession it is found, together with all persons present if any of the aforesaid substances is found, and to return forthwith the warrant with his doings thereon to a court or trial justice having jurisdiction in the place in which such substance is alleged to be kept or deposited.

SECTION 2. Whoever is so present where any of the aforesaid drugs is found shall be punished by a fine of not more than fifty dollars or by imprisonment in the house of correction for three months.

SECTION 3 (as amended by 1912, 283, § 2). Whoever, not being a manufacturer or jobber of drugs, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, registered nurse or an employee of an incorporated hospital, or a common

carrier or porter when transporting any drug mentioned herein between parties hereinbefore mentioned, is found in possession thereof, except by reason of a physician's prescription, shall be punished by a fine of not more than one hundred dollars or by imprisonment for six months in the house of correction.

Enforcement (added by 1912, 283).

SECTION 4. Possession of the above mentioned articles shall be presumptive evidence that such possession was in violation of law.

SECTION 5. If after such notice as the court or trial justice shall order, it appears that any article or drug seized under the provisions of section one was, at the time of the making of the complaint, in the possession of the person alleged therein in violation of law, the court or trial justice shall order that such article or drug so seized shall be forfeited to the commonwealth and shall order such article or drug to be sent to the state board of health. Said board may destroy the same or cause the same to be destroyed or to be disposed of in any way not prohibited by law, and, after paying the cost of transportation of said substances and of the disposition thereof, said board shall pay over the net proceeds to the treasurer and receiver general.

SECTION 6. The provisions of section eight of chapter two hundred and seventeen of the Revised Laws shall apply to all judgments and orders made under this act.

TOBACCO.

REVISED LAWS, 213.

Sale of Cigarettes or Tobacco to Minors.

SECTION 3 (as amended by 1909, 346, § 1). Whoever sells a cigarette to a person under eighteen years of age, or whoever sells snuff or tobacco in any of its forms to a person under sixteen years of age, or, not being his parent or guardian, gives a cigarette to a person under eighteen years of age, or gives snuff or tobacco in any of its forms to a person under sixteen years of age, shall be punished by a fine of not more than fifty dollars. A copy of this section printed in letters not less in size than 18 point capitals, bold face, shall be posted conspicuously in the shop or other place of sale used by any person selling cigarettes at retail, and whoever violates this provision shall be punished as above prescribed.

1886, 72. 1901, 373.

ACTS OF 1909, 346.

SECTION 2. It shall be the duty of the police department of cities and towns where such exist, and of constables in towns not having a police department, to see that a copy of the said section three, as above amended, is posted in a conspicuous place where it can easily be read, in every shop or place where cigarettes are sold at retail. Any person unlawfully re-

moving the said copy while cigarettes are still sold on the premises where it is posted shall be subject to a penalty of ten dollars.

SECTION 3. Copies of the said section, printed as above specified, shall be prepared by the state board of health, and shall be delivered without charge to the cities and towns applying for them.

ALCOHOL.

REVISED LAWS, 213.

Adulteration of Liquor used for Drink.

SECTION 1. Whoever, for the purpose of sale, adulterates any liquor used or intended for drink with Indian cockle, vitriol, grains of paradise, opium, alum, cochineal, capsicum, copperas, laurel water, logwood, Brazil wood, sugar of lead or any other substance which is poisonous or injurious to health, and whoever knowingly sells any such liquor so adulterated, shall be punished by imprisonment in the state prison for not more than three years; and the articles so adulterated shall be forfeited. 1855, 356. G. S. 166, § 4. P. S. 208, § 4.

ACTS OF 1911, 30.

Prohibition of the Sale or Delivery to Hospital Patients of Intoxicating Liquors and Narcotic Drugs except by Direction of a Physician.

Whoever, except under the direction of a physician, gives, sells or delivers spirituous or intoxicating liquor or a narcotic drug to a patient in any hospital who is suffering from inebriety or from the effect of inebriety, or from excessive use of narcotic drugs or from the effect of the excessive use of narcotic drugs, and whoever has in his possession within the precincts of any hospital any such liquor or drug with intent to convey or deliver it to any such patient, except under direction as aforesaid, shall be punished by a fine of not more than fifty dollars or by imprisonment of not more than two months.

ACTS OF 1910, 541.

Wood Alcohol must be labelled "Poison."

SECTION 1. Whoever, himself, or by his servant or agent, or as the servant or agent of any other person sells, exchanges or delivers any wood alcohol, otherwise known as methyl alcohol, either crude or refined, or denatured alcohol which contains any methyl alcohol, under or by whatever name or trade mark the same may be called or known shall affix to the bottle or vessel containing the same a label bearing the words, "Poison, Not for Internal Use", in red letters of uncondensed Gothic type not less than one fourth of an inch in height, and the same words, "Poison, Not for Internal Use", in stencilled letters or similar Gothic type of a size not less than three fourths nor more than one and one half inches in height for use on barrels and kegs. Whoever violates any provision of this section shall pay a fine of not less than fifty nor more

than two hundred dollars for each sale in respect to which the violation occurs.

SECTION 2. Whoever, himself, or by his servant or agent, or as the servant or agent of any other person sells, exchanges or delivers, or has in his possession with intent to sell, exchange or deliver, any article of food or drink, or any drug intended for internal use, containing any wood alcohol, otherwise known as methyl alcohol, either crude or refined, under or by whatever name or trade mark the same may be called or known, shall be punished by a fine of not less than two hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

POISONS.

REVISED LAWS, 213.

Certain Poisons must bear Red Labels, and their Sale shall be recorded. Exception for Insecticides.

SECTION 2 (as amended by 1912, 263, and by 1913, 585). Whoever sells arsenic (arsenious acid), atropia or any of its salts, chloral hydrate, chloroform, cotton root and its fluid extract, corrosive sublimate, cyanide of potassium, Donovan's solution, ergot and its fluid extract, Fowler's solution, laudanum, McMunn's elixir, morphia or any of its salts, oil of pennyroyal, oil of savin, oil of tansy, opium, Paris green, Parson's vermin exterminator, phosphorus, prussic acid, "rough on rats", strychnia or any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nux vomica, tincture of veratrum viride, compounds of fluorine, or carbolic acid, without the written prescription of a physician, shall affix to the bottle, box or wrapper containing the article sold a label of red paper upon which shall be printed in large black letters the name and place of business of the vendor and the words *poison* and *antidote,* and the label shall also contain the name of an antidote, if any, for the poison sold. He shall also keep a record of the name and quantity of the article sold and of the name and residence of the person or persons to whom it was delivered, which shall be made before the article is delivered and shall at all times be open to inspection by the officers of the district police and by the police authorities and officers of cities and towns; but no sale of cocaine or its salts shall be made except upon the prescription of a physician. Whoever neglects to affix such label to such bottle, box or wrapper before delivery thereof to the purchaser or whoever neglects to keep or refuses to show to said officers such record or whoever purchases any of said poisons and gives a false or fictitious name to the vendor shall be punished by a fine of not more than fifty dollars. The provisions of this section shall not apply to sales by wholesale dealers or manufacturing chemists to retail dealers, or to a general merchant who sells Paris green, London purple or other arsenical poisons in unbroken packages containing not less than one quarter of a pound, for

the sole purpose of destroying potato bugs or other insects upon plants, vines or trees, except that he shall record each sale and label each package sold, as above provided. Nor shall the provisions of this section apply to sales of compounds containing not more than fifty per cent of sodium fluoride intended solely for the destruction of roaches, ants or other household insects when sold in sealed metal packages containing not less than one fourth of a pound plainly labeled in such a manner as to show the purposes for which the preparation is intended.

1857, 280. G. S. 166, § 7. P. S. 208, § 6. 1887, 38. 1888, 209. 1896, 397, § 20. 1898, 192.

Sale of Toys or Candy containing Arsenic.

SECTION 6. Whoever himself or by his agent or servant, or as the agent or servant of another person, manufactures, sells or exchanges, or has in his custody or possession with intent to sell or exchange, or exposes or offers for sale or exchange, any toys or confectionery, containing or coated wholly or in part with arsenic, shall be punished by a fine of not less than fifty nor more than one hundred dollars. 1891, 374, § 1.

Samples of Paper, Fabrics, etc., shall be furnished.

SECTION 7. Whoever offers or exposes for sale or exchange any paper, fabric or other article shall furnish a sample thereof sufficient for the purpose of ascertaining by analysis the existence of arsenic therein, if such sample can be obtained without damage to the remaining portion, to any inspector, chemist or other agent or officer of the state board of health who applies therefor and tenders the value thereof; and for a violation of the provisions of this section shall be punished as provided in the preceding section. 1891, 374, § 3.

Sale of Fabrics or Paper containing Arsenic.

SECTION 8. Whoever himself or by his agent or servant manufactures, sells or exchanges, or has in his custody or possession with intent to sell or exchange, any woven fabric or paper containing arsenic in any form, or any article of dress or household use composed wholly or in part of such woven fabric or paper, shall be punished by a fine of not less than fifty nor more than two hundred dollars; but the provisions of this section shall not apply to articles intended for the destruction of insects, having the word "*Poison*" plainly printed in uncondensed gothic letters not less than one inch long on both sides of each sheet and square foot of the fabric, or to dress goods or articles of dress containing not more than one one-hundredth grain, or to other materials or articles containing not more than one-tenth grain of arsenic for each square yard of the material. The state board of health shall make all necessary investigations as to the existence of arsenic in the aforesaid articles and materials, employ inspectors and chemists and adopt such measures as are necessary to enforce the provisions of this section.

1900, 325. 1901, 188.

Milk.

Acts of 1914, 744.

The Production and Sale of Milk.

Section 1. It shall be unlawful for any producer of milk or dealer in milk to sell or deliver for sale in any city or town in the commonwealth any milk produced or dealt in by him without first obtaining from the board of health of such city or town a permit authorizing such sale or delivery. Said boards of health are hereby authorized to issue such permits after an inspection, satisfactory to them, of the place in which and of the circumstances under which such milk is produced, has been made by them or by their authorized agent. Any permit so granted may contain such reasonable conditions as said board may think suitable for protecting the public health and may be revoked for failure to comply with any of such conditions. No charge shall be made to the producer for the permit or for the inspection of the dairy where the milk is produced.

Section 2. In case any permit so granted is revoked, the board revoking the permit shall immediately send notice of the revocation to the state board of health, and the state board of health shall at once inform the boards of health of other cities and towns in the commonwealth where, in its judgment, milk produced by the dairy to which the permit relates would be likely to be sold or delivered for sale, and the state board of health shall also give notice of such revocation to any dealer in milk who, in the judgment of the board, would be likely to purchase milk from such dairy; and upon receipt of such notice it shall be unlawful for any dealer so notified to sell or offer for sale in this commonwealth milk from the said dairy.

Section 3. After a permit has been revoked, it may be renewed in the same way in which the original permit was issued, in which case the same form of notification shall follow as is required in the issuance of the original permit.

Section 4. Any person, firm or corporation violating any provision of this act shall be punished by a fine of not more than one hundred dollars for each offence.

Section 5. It shall be the duty of the state board of health to enforce the provisions of section two of this act.

Section 6. It shall be the duty of the inspectors of milk appointed by the boards of health of cities and towns to enforce the provisions of section one, so far as relates to the milk supply of their respective cities and towns.

Acts of 1909, 443.

Licensing Dealers in Milk.

Section 1. No person, partnership or corporation, except a producer selling milk to other than consumers, or not to exceed twenty quarts per day to consumers, shall deliver, exchange, expose for sale or sell or have in his custody or possession with the intent to deliver, exchange, expose for sale or sell any milk, skimmed milk or cream in any city or town in which an inspector of milk is appointed, without obtaining from the inspector of milk of such city or town a license. The license shall contain the number thereof, the name, place of business, residence, number of carriages or other vehicles used by the licensee and the name of every driver or other person employed by him in carrying or selling milk. A license issued to a partnership or corporation shall be issued in the business name of said partnership or corporation and it shall contain the names in full of the partners and managers of said partnership or officers of said corporation. The license shall, for the purposes of this chapter, be conclusive evidence of ownership and shall not be sold, assigned or transferred. Whoever in such cities or towns engages himself or by his servant or agent in the business of selling milk, skimmed milk or cream from any carriage or other vehicle shall display conspicuously on the outer side of all carriages or other vehicles so used, the license number in figures not less than one and one half inches in height and the name and place of business of the licensee in Gothic letters not less than one and one half inches in height. Whoever in such cities or towns engages himself or by his servant or agent in the business of selling milk, skimmed milk or cream in a store, booth, stand, or market place shall have his license conspicuously posted in such store, booth, stand or market place.

Section 2. Whoever, without being licensed in accordance with the preceding section, delivers, exchanges, exposes for sale or sells milk, skimmed milk or cream, or has it in his custody or possession with intent to deliver, exchange, expose for sale or sell, and whoever violates any of the provisions of the preceding section shall for a first offence be punished by a fine of not less than ten dollars nor more than one hundred dollars, for a second offence by a fine of not less than fifty dollars nor more than three hundred dollars and for a subsequent offence by a fine of fifty dollars and by imprisonment for not less than thirty nor more than sixty days.

Section 3. Inspectors of milk in any city or town may, for the purposes mentioned in the preceding sections, grant licenses, subject to the regulations established by the board of health of such city or town, to suitable persons, and shall receive for each license so granted a fee of fifty cents for the use of such city or town, and all license fees collected by him shall be paid over monthly to the city or town treasurer. Such licenses shall remain in force until the first day of June next following,

unless previous to that time said license is suspended or revoked. Said inspector of milk may declare any license granted by him suspended or forfeited upon a conviction of the licensee in any court of this commonwealth, for violation of the terms of his license.

SECTION 4. If the applicant for a license fails to comply with any regulation established by the board of health in the city or town where the application is made, a license may be refused until he has complied with such regulation; and a license granted under the provisions of this act may be revoked at any time for failure to comply with any such regulation as aforesaid. If a license is refused or revoked under this provision, an appeal may be taken to the state board of health, whose decision shall be final and conclusive.

ACTS OF 1909, 405.

Appointment of Milk Inspectors.

SECTION 1 (as amended by 1910, 114). The boards of health of cities shall, and boards of health of towns or the selectmen acting as such boards, may, appoint one or more inspectors of milk for their respective cities and towns. In cities such inspectors, after appointment, may be removed from office in accordance with the provisions of chapter three hundred and fourteen of the acts of the year nineteen hundred and four; in towns they may be removed at any time by the appointing board. Such inspectors shall have the powers and perform the duties now conferred and imposed by law upon the inspectors of milk, but they shall be under the control of the boards of health appointing them, and shall perform such other duties as the said boards may designate. Their compensation shall be determined by the boards of health in cities, and by the boards of health in towns, or by selectmen acting as such boards.

ACTS OF 1910, 457.

Inspectors of Milk.

SECTION 1. No person whose business is, in whole or in part, the buying or selling of milk, or who is an officer, agent or employee of any person, partnership or corporation engaged in the sale of milk shall hereafter be appointed or reappointed an inspector of milk.

REVISED LAWS, 56.

Inspectors to publish Notice of Appointment.

SECTION 51. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more inspectors of milk for their respective cities and towns.[1] Each inspector shall be sworn before entering upon the performance of his official duties and shall publish a notice of his appointment for two weeks in a newspaper published in his

[1] But see 1909, 405, § 1, *supra*.

city or town, if any; otherwise he shall post such notice in two or more public places in such city or town. He shall receive such compensation as the mayor and aldermen or selectmen may determine.[1]

1859, 206, §§ 1, 3.	P. S. 57, §§ 1, 2.	1885, 352, § 4.
G. S. 49, § 148.	1884, 310, § 3.	1886, 318, § 1.
1864, 122, §§ 1, 2.		

Duties and Powers of Inspectors and Collectors.

SECTION 52. Such inspectors shall keep an office and shall record, in books kept for the purpose, the names and places of business of all persons engaged in the sale of milk within their city or town. They may, with the approval of the mayor or selectmen, employ collectors of samples of milk, who shall be sworn before entering upon their duties. The inspectors or collectors may enter all places in which milk is stored or kept for sale and all carriages used for the conveyance of milk, and may take therefrom samples for analysis. They shall, upon request made at the time such sample is taken, seal and deliver to the owner or person from whose possession the milk is taken a portion of each sample, and a receipt therefor shall be given to the inspector or collector. Inspectors shall cause such samples to be analyzed or otherwise satisfactorily tested, and shall record and preserve as evidence the results thereof; but no evidence of the result of such analysis or test shall be received if the inspector or collector on request, refuses or neglects to seal and deliver a portion of the sample taken as aforesaid to the owner or person from whose possession it is taken.

1859, 206, §§ 1, 2.	P. S. 57, § 2.	11 Allen, 264.	143 Mass. 172, 418.
G. S. 49, § 149.	1884, 310, §§ 3, 4.	132 Mass. 12.	144 Mass. 132.
1860, 165, § 2.	1885, 352, § 4.	141 Mass. 135.	157 Mass. 460.
1864, 124, § 2.	1886, 318, §§ 1, 3.		

The seizure of a sample of milk for examination is a reasonable method of inspection and does not require a warrant. Commonwealth *v.* Carter, 182 Mass. 12.

The sample must be sealed so that the container is air-tight. Commonwealth *v.* Lockhardt, 144 Mass. 132.

If the inspector purchases milk for his analysis it is not necessary that he give the dealer a sample. Commonwealth *v.* Coleman, 157 Mass. 460.

ACTS OF 1909, 405.

Collection of Milk, Appointment, etc.

SECTION 2. The collectors of milk provided for by section fifty-two of chapter fifty-six of the Revised Laws shall hereafter be appointed by the board of health, or by the selectmen acting as such a board, in each city or town, and the said boards may also designate and employ any member of the board or any agent or employee thereof, to act as a collector of milk, and the collectors of milk so appointed or designated shall have the powers and perform the duties conferred or imposed by law upon collectors of milk.

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[1] But see 1909, 405, § 1, *supra*.

General Acts of 1915, 109.

Prohibiting Charges for the Inspection of Live Stock, Dairies or Farm Buildings.

Section 1. It shall be unlawful for any state or municipal inspector or other officer to charge any fee for the inspection of any live stock or of any dairy, barn or stable on any farm in which milk is produced for sale.

Revised Laws, 56.

Sale of Adulterated, Diseased or Skimmed Milk. Penalties.

Section 55. Whoever, himself or by his servant or agent, or as the servant or agent of another person, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver or exposes or offers for sale or exchange, adulterated milk or milk to which water or any foreign substance has been added, or milk produced from cows which have been fed on the refuse of distilleries, or from sick or diseased cows, or, as pure milk, milk from which the cream or a part thereof has been removed, and whoever sells, exchanges or delivers or has in his custody or possession with intent to sell, exchange or deliver, skimmed milk containing less than nine and three-tenths per cent of milk solids exclusive of fat, shall for a first offence be punished by a fine of not less than fifty nor more than two hundred dollars, for a second offence by a fine of not less than one hundred nor more than three hundred dollars and for a subsequent offence by a fine of fifty dollars and by imprisonment for not less than sixty nor more than ninety days.

1856, 222.	1872, 319, §§ 1–3.	103 Mass. 444.	144 Mass. 357.
1859, 206, §§ 4, 5.	1880, 209, §§ 3, 4.	107 Mass. 194.	146 Mass. 38, 128, 512.
G. S. 49, § 151.	P. S. 57, §§ 5, 6.	130 Mass. 42.	149 Mass. 9.
1860, 165, § 1.	1885, 352, § 8.	132 Mass. 11.	153 Mass. 159.
1863, 140, § 2.	1886, 318, § 2.	139 Mass. 193.	155 Mass. 442.
1864, 122, § 4.	1900, 300, § 1.	140 Mass. 483.	159 Mass. 8.
1868, 263, § 1.	9 Allen, 489.	141 Mass. 129.	160 Mass. 533.
1869, 150, § 1.	10 Allen, 199.	143 Mass. 169, 172, 418.	165 Mass. 38.
1870, 311.	11 Allen, 264.		

The section applies also to cream (Commonwealth *v.* Gordon, 159 Mass. 8; Commonwealth *v.* Elm Farm Milk Co., 221 Mass. 68), and to milk sold to be drunk on the premises (Commonwealth *v.* Vieth, 155 Mass. 442; Commonwealth *v.* Warren, 160 Mass. 533). It does not apply to concentrated milk. Commonwealth *v.* Boston White Cross Milk Company, 209 Mass. 30.

The section is constitutional. Commonwealth *v.* Waite, 11 Allen, 264; Commonwealth *v.* Wheeler, 205 Mass. 384.

Ignorance of the adulteration or unintentional adulteration is no defence. Commonwealth *v.* Farren, 9 Allen, 489; Commonwealth *v.* Nichols, 11 Allen, 199; Commonwealth *v.* Smith, 103 Mass. 444; Commonwealth *v.* Warren, 160 Mass. 533; Commonwealth *v.* Graustein & Co., 209 Mass. 38.

Evidence that the milk was bought under contract is immaterial. Commonwealth *v.* Holt, 146 Mass. 38. For other matters of evidence and pleading, see 141 Mass. 129; 143 Mass. 169, 418; 146 Mass. 128, 512; 189 Mass. 342. It is not necessary to set forth in the complaint the manner in which the milk was adulterated. Commonwealth *v.* Keenan, 139 Mass. 193; Common-

wealth *v.* Bowers, 140 Mass. 483. It is immaterial whether or not the adulteration is injurious. Commonwealth *v.* Phelps, 210 Mass. 109.

In prosecutions under this section books and articles stating that milk may be pure even if found to be below the percentage of fat required by our statutes are inadmissible in evidence. *Ibid.*

Under this section it is an offence to sell skimmed milk to which water or any other foreign substance has been added, or skimmed milk produced from cows fed on the refuse of distilleries, or from sick or diseased cows. Commonwealth *v.* Wetherbee, 153 Mass. 159.

Definition of Milk not of Good Standard Quality.

SECTION 56 (as amended by 1908, 643). In prosecutions under the provisions of sections fifty-one to sixty-four, inclusive, milk which, upon analysis, is shown to contain less than twelve and fifteen hundredths per cent of milk solids or less than three and thirty-five hundredths per cent of fat, shall not be considered of good standard quality.

1880, 209, § 7.	1886, 318, § 2.	132 Mass. 11.	184 Mass. 207.
P. S. 57, § 9.	1896, 398, § 2.	139 Mass. 193.	189 Mass. 342.
1885, 352, § 6.	1899, 223.	143 Mass. 418.	

In an action of contract for the price of milk delivered, the plaintiff need not prove, as a part of his *prima facie* case, that the milk was of the standard required by the statute. Whitcomb *v.* Boston Dairy Company, 218 Mass. 24. When the defendant has introduced evidence that the milk was not up to the standard, the burden is on the plaintiff to prove that the milk delivered was up to the standard. Copeland *v.* Boston Dairy Company, 184 Mass. 207.

Sale of Milk not of Good Standard Quality. Penalties.

SECTION 57 (as amended by 1910, 641, § 2). Whoever, himself or by his servant or agent or as the servant or agent of another person, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver, milk which is not of good standard quality shall for a first offence be punished by a fine of not more than fifty dollars, for a second offence by a fine of not less than one hundred nor more than two hundred dollars, and for a subsequent offence by a fine of not more than two hundred dollars or by imprisonment for not more than ninety days.

1880, 209, § 4.	P. S. 57, § 6.	1886, 318, § 2.	1900, 300, § 2.

Skimmed Milk must be marked.

SECTION 58. Whoever, himself or by his agent, sells, exchanges or delivers or has in his custody or possession with intent to sell, exchange or deliver, milk from which the cream or a part thereof has been removed, not having the words "*skimmed milk*" distinctly marked upon a light ground in plain, dark, uncondensed gothic letters at least one inch in length in a conspicuous place upon every vessel, can or package from or in which such milk is, or is intended to be, sold, exchanged or delivered shall be punished as provided in section fifty-five.[1] If such vessel,

[1] *Supra.*

can or package is of the capacity of not more than two quarts, said words may be placed upon a detachable label or tag attached thereto and said letters may be less than one inch in length.

1880, 209, § 5. P. S. 57, § 7. 1885, 352, § 7. 1896, 398, § 1. 141 Mass. 129.

For a discussion of the legal method of selling skimmed milk, see Commonwealth *v.* Smith, 149 Mass. 9.

ACTS OF 1908, 570.

The Proper Marking of Heated Milk.

SECTION 1. Whoever, himself or by his servant or agent, or as the servant or agent of any person, firm or corporation, sells, exchanges or delivers or has in his custody or possession with intent to sell, exchange or deliver any milk which has been subjected to artificial heat greater than one hundred and sixty-seven degrees Fahrenheit, not having the words "heated milk" distinctly marked upon a light ground in plain black uncondensed gothic letters at least one inch in length in a conspicuous place upon every vessel, can or package from or in which such milk is, or is intended to be, sold, exchanged or delivered shall for a first offence be punished by a fine of not less than fifty nor more than two hundred dollars, for a second offence by a fine of not less than one hundred nor more than three hundred dollars, and for a subsequent offence by a fine of fifty dollars and by imprisonment for not less than sixty nor more than ninety days. If such vessel, can or package is of the capacity of not more than two quarts, said words may be placed upon a detachable label or tag attached thereto and said letters may be less than one inch in length, but not smaller than brevier gothic capital letters.

SECTION 2. Nothing in this act shall be construed as applying to condensed milk or to milk which has been concentrated to one half its volume or less.

REVISED LAWS, 56.

Condensed Milk must be marked.

SECTION 59. Whoever sells, or offers for sale or exchange, condensed milk or condensed skimmed milk in hermetically sealed cans without having such cans distinctly labelled with the name of the manufacturer of such milk, the brand under which it is made and the contents of the can; and whoever sells condensed milk from cans or packages not hermetically sealed without having such cans or packages branded or labelled with the name of the manufacturer, shall be punished as provided in section fifty-five.[1] 1896, 264.

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[1] *Supra.*

Acts of 1911, 610.

Labelling of Containers of Condensed, Concentrated and Evaporated Milk and Skimmed Milk.

Section 1 (as amended by 1912, 474). Every container of evaporated, concentrated or condensed whole milk, and every container of evaporated, concentrated or condensed skimmed milk, sold or offered for sale or had in possession or custody with intent to sell by any person, firm or corporation within this commonwealth, shall have plainly printed thereon in the English language, or attached thereto on some firmly affixed tag or label, a formula for extending the said evaporated, concentrated or condensed milk and said evaporated, concentrated or condensed skimmed milk, respectively, with water. The formula for the extension of said evaporated, concentrated or condensed whole milk shall be such that the resulting milk product shall not be below the Massachusetts standard of milk solids or fat for whole milk, and shall be in the following form: — By adding parts of water to one part of the contents of this can a resulting milk product will be obtained which will not be below the legal standard for whole milk. The formula for the extension of said evaporated, concentrated or condensed skimmed milk shall be such that the resulting milk product shall not be below the Massachusetts standard of milk solids for skimmed milk, and shall be in the following form: — By adding parts of water to one part of the contents of this can a resulting milk product will be obtained which will not be below the legal standard for skimmed milk.

Section 2. Whoever, himself or by his servant or agent, or as the servant or agent of any person, firm or corporation, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver any container of evaporated, concentrated or condensed milk, within this commonwealth, not marked or labeled in compliance with the provisions of this act shall, for the first offence, be punished by a fine of not more than one hundred dollars, for a second offence by a fine of not less than one hundred nor more than two hundred dollars, and for a subsequent offence by a fine of five hundred dollars, or by imprisonment for not less than three nor more than six months.

Acts of 1912, 218.

To regulate the Use of Utensils for Testing the Composition or Value of Milk and Cream.

Section 1. No bottle, pipette, or other measuring glass or utensil shall be used in this commonwealth by any inspector of milk or cream, or by any person in any milk inspection laboratory, in determining, by the Babcock or other centrifugal machine, the composition of milk or cream for the purposes of inspection; or by any person in any milk depot, creamery, cheese factory, condensed milk factory or other place in determining, by

the Babcock or other centrifugal machine, the composition or value of milk or cream as a basis for payment in buying or selling, until it has been tested for accuracy and verified by the director of the Massachusetts agricultural experiment station, or by his duly designated deputy or deputies. Every such bottle, pipette, or other measuring glass or utensil shall be submitted to the said director by the owner or user thereof, to be tested for accuracy before the same is used in this commonwealth for the purposes aforesaid. The owner or user shall pay to the said director for the use of the said station as a fee for making the test, a sum not exceeding five cents for each bottle, pipette, or other measuring glass or utensil tested. Any bottle, pipette, or other measuring glass or utensil that has been tested and verified as aforesaid shall be marked by the director or by his said deputy or deputies to indicate the fact, or if tested and found to be inaccurate may be marked by him or them to indicate that it is inaccurate. No bottle, pipette, or other measuring glass or utensil that has been marked by the said director, or by his duly designated deputy or deputies, to indicate that it is inaccurate shall be used in this commonwealth by any person in determining the composition or value of milk or cream.

Section 2. Every Babcock or other centrifugal machine used in this commonwealth by any inspector of milk or cream, or by any person in any milk inspection laboratory for determining the composition of milk or cream for purposes of inspection, or by any person in any milk depot, creamery, cheese factory, condensed milk factory or other place for determining the composition or value of milk or cream as a basis for payment in buying or selling, shall be subject to inspection at least once in each year by the director of the Massachusetts agricultural experiment station or by an inspector or deputy of the said director. The owner or user of any such centrifugal machine shall pay to the said director for the use of said station as a fee for making such annual inspection the actual cost of such inspection for each machine inspected.

Any Babcock or other centrifugal machine used as aforesaid that is not, in the opinion of the director, or of an inspector or deputy of the said director, in condition to give accurate results, may be condemned by the director or by his inspector or deputy. No Babcock or other centrifugal machine that has been condemned by said director or by an inspector or deputy of the director as not in condition to give accurate results shall be used in this commonwealth by any person for determining the composition or value of milk or cream as aforesaid, unless the machine be changed to the satisfaction of the said director or of his inspector or deputy, and approved by him.

Section 3. No inspector of milk or cream, and no person in any milk inspection laboratory, shall manipulate the Babcock or other centrifugal machine for the purpose of determining the composition of milk or cream for purposes of inspection, and no person in any milk depot, creamery,

cheese factory, condensed milk factory, or other place in this commonwealth shall manipulate the Babcock or other centrifugal machine for the purpose of determining the composition or value of milk or cream as a basis for payment in buying or selling, without first obtaining a certificate from the director of the Massachusetts agricultural experiment station, or his duly designated deputy, that he is competent to perform such work. The fee for such certificate shall be two dollars, and shall be paid by the applicant therefor to the said director for the use of the said station. In case any holder of a certificate is notified by the director, or by his duly designated deputy, to correct his use of a Babcock or other centrifugal machine, the actual cost of making an inspection to ascertain if the said person has corrected his use of the said machine shall be paid by the said person or by his employer to the director for the use of the said station. No holder of a certificate whose authority to manipulate a Babcock or other centrifugal machine has been revoked by the director of the Massachusetts agricultural experiment station, or by his duly designated deputy, shall thereafter manipulate in this commonwealth any centrifugal machine for the purposes aforesaid.

Section 4. The director of the Massachusetts agricultural experiment station and his duly designated deputy are hereby authorized to issue certificates of competency to such persons desiring to manipulate the Babcock or other centrifugal machine as, in the opinion of the director or his deputy, are competent to manipulate said machines. The said director or his deputy may make and enforce rules governing applications for such certificates and the granting thereof and may, in his discretion, revoke the authority of any holder of a certificate who, in the opinion of the director or of his deputy, or of an inspector of the said director, is not correctly manipulating any centrifugal machine as aforesaid, or is using dirty or otherwise unsatisfactory glassware or utensils.

Section 5. It shall be the duty of the director of the Massachusetts agricultural experiment station, and he is hereby authorized, to test or cause to be tested all bottles, pipettes and other measuring glasses or utensils submitted to him as provided in section one, to inspect or cause to be inspected at least once each year every Babcock or other centrifugal machine used in this commonwealth by an inspector of milk or cream, or by any person in any milk inspection laboratory, for purposes of inspection, or by any person in any milk depot, creamery, cheese factory, condensed milk factory, or other place for determining the composition or value of milk or cream as a basis for payment in buying or selling, and to collect or cause to be collected for the use of said station the fees or actual cost of tests and inspections provided for in this act. The said director, his inspectors and deputies are further authorized to enter upon any premises in this commonwealth where any centrifugal machine is used as aforesaid to inspect the same and to ascertain if the provisions of this act are complied with.

SECTION 6. Any person hindering or obstructing the director of the Massachusetts agricultural experiment station, or any inspector or deputy of the said director, in the discharge of the authority or duty imposed upon him or them by any provision of this act, and any person violating any of the provisions of sections one, two and three of this act shall be punished by a fine of not less than fifteen and not more than fifty dollars for each offence.

SECTION 7. It shall be the duty of the director of the Massachusetts agricultural experiment station to see that the provisions of this act are complied with, and he may in his discretion prosecute or cause to be prosecuted any person violating any provision of this act. But this act shall not be construed to affect any persons using any centrifugal or other machine or test in determining the composition or value of milk or cream when such determination is made for the information of such persons only, and not for purposes of inspection, or as a basis for payment in buying or selling.

SECTION 8. A sum not exceeding five hundred dollars yearly shall be allowed and paid out of the treasury of the commonwealth to meet the cost of prosecutions under this act, to be paid upon the presentation to the treasurer of the commonwealth by the director of the Massachusetts agricultural experiment station of proper vouchers therefor.

SECTION 9. The word "person" as used in this act shall include a corporation, association oı partnership of two or more persons having a joint or common interest.

SECTION 10. Sections sixty-five to sixty-nine, inclusive, of chapter fifty-six of the Revised Laws, and chapter four hundred and twenty-five of the acts of the year nineteen hundred and nine are hereby repealed.

REVISED LAWS, 56.

Penalty for using Counterfeit Seal or tampering with Sample.

SECTION 60. Whoever makes, causes to be made, uses or has in his possession, an imitation or counterfeit of a seal used by an inspector of milk, collector of samples or other officer engaged in the inspection of milk, and whoever changes or tampers with a sample taken or sealed as provided in section fifty-two,[1] shall be punished by a fine of one hundred dollars and by imprisonment for not less than three nor more than six months. 1886, 318, § 4. 1896, 398, § 3.

Penalty for Connivance or Obstruction.

SECTION 61. An inspector of milk, or his servant or agent, who wilfully connives at or assists in a violation of the provisions of sections fifty-one to sixty-four,[2] inclusive, or of section seventy,[3] or whoever, except as provided in section forty-two,[4] hinders, obstructs, or interferes with an

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[1] See page 25. [2] See pages 24–33. [3] See page 53. [4] See page 41.

inspector of milk or his servant or agent in the performance of his duty, shall be punished by a fine of not less than one hundred nor more than three hundred dollars or by imprisonment for not less than thirty nor more than sixty days.

1880, 209, § 6. P. S. 57, § 8. 1884, 310, § 5. 141 Mass. 135.

The authority to take, against the will of the owner, samples of milk cannot be delegated by an inspector to an agent or assistant. Commonwealth *v.* Smith, 141 Mass. 135.

Liability of Producer of Milk limited.

SECTION 62 (as amended by 1910, 641, § 1). A producer of milk shall not be liable to prosecution for the reason that the milk produced by him is not of good standard quality unless such milk was taken upon his premises or while in his possession or under his control by an inspector of milk, by a collector of samples of milk, or by an agent of the dairy bureau or of the state board of health, and a sealed sample thereof was given to him, nor unless he shall fail to bring the milk produced by him to the legal standard for milk solids and milk fat within twenty days after written notice has been sent from the officer taking said sample that it is below said standard. At any time after the said period of twenty days allowed the producer to bring his milk to the legal standard has elapsed the officer taking the first sample may take a second sample, and if it shall be found to be below the legal standard for milk solids and milk fat prosecution may follow. 1894, 425. 165 Mass. 38.

Results of Analysis to be sent to Dealer.

SECTION 63. An officer of the state board of health or of the dairy bureau, an inspector of milk or collector of samples or other state, city or town officer who obtains a sample of milk for analysis shall, within ten days after obtaining the result of the analysis, send it to the person from whom the sample was taken or to the person responsible for the condition of such milk. 1899, 169. 176 Mass. 292.

This section is complied with if the percentage of milk solids or of fat is furnished. Commonwealth *v.* McCance, 176 Mass. 292.

Inspectors must act on Information and Evidence.

SECTION 64. An inspector shall make a complaint for a violation of any of the provisions of sections fifty-one to sixty-nine, inclusive, upon the information of any person who lays before him satisfactory evidence by which to sustain such complaint.

1859, 206, § 1. 1868, 263, § 3. P. S. 57, § 10.
G. S. 49, § 149. 1869, 150, § 3. 141 Mass. 129.

This section does not prohibit a person who is not an inspector from making a complaint. Commonwealth *v.* Tobias, 141 Mass. 129.

ACTS OF 1913, 761.

Unclean Milk Containers and Appliances used in the Treatment and Mixing of Milk.

SECTION 1. Vessels used as containers in the holding, handling or sale of milk to be sold, or intended for sale, shall be clean and free from foreign deposits upon the inside. Whoever, by himself or by his servant or agent, or as the servant or agent of another person, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver, milk in vessels used as containers unclean upon the inside or having foreign deposits upon the inside, shall be punished by a fine of not more than fifty dollars.

SECTION 2. All appliances, implements, utensils, strainers or materials used in milking and in the treatment or mixing of milk to be sold or intended for sale shall be clean and free from foreign deposits. Whoever, by himself or by his servant or agent, or as the servant or agent of another person, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver, milk obtained, treated or mixed by the use of appliances, implements, utensils, strainers or materials unclean or having foreign deposits shall be punished by a fine of not more than fifty dollars.

ACTS OF 1906, 116.

Misuse of Milk Cans and Bottles prohibited.

SECTION 1. Whoever by himself or by his servant or agent or as the servant or agent of any other person, firm or corporation, having custody of a milk can, measure or other vessel used as a container for milk destined for sale, places or causes or permits to be placed therein any offal, swill, kerosene, vegetable matter or any article other than milk, skimmed milk, buttermilk, cream, or water or other agent used for cleansing said can, measure or other vessel, shall be punished by a fine of not more than ten dollars for each vessel so misused.

SECTION 2. Whoever by himself or by his servant or agent or as the servant or agent of any other person, firm or corporation, sends, ships, returns or delivers, or causes or permits to be sent, shipped, returned or delivered to any producer of milk any milk can, measure or other vessel used as a container for milk, containing any offal, swill, kerosene, vegetable matter, or any other offensive material, shall be punished by a fine of not more than ten dollars for every such vessel.

Milkmen may not use Cans, etc., not their Own.

SECTION 3 (as amended by 1908, 435, § 1). Every licensed milk dealer who sells, or has in his possession with intent to sell, milk not contained in clean vessels bearing his own name, or the name under which his business is conducted, and bearing no other name, shall be punished

by a fine of ten dollars for each offence; but the provisions of this section shall not apply to persons using clean vessels bearing the name of another person whose written permission for such use shall have been obtained previously and registered in the office of the milk inspector, in municipalities having such officer, and in other municipalities registered in the office of the city or town clerk.

ACTS OF 1911, 381.

Regulation of Places where Neat Cattle, Other Ruminants or Swine are kept.

SECTION 1. The chief of the cattle bureau [1] and his agents are hereby authorized to enter and inspect all barns, stables, pastures, yards and other places where neat cattle, other ruminants, or swine are kept. The chief of the cattle bureau may make and enforce all reasonable rules and regulations respecting the sanitary condition of such barns, stables and other places, and of the neat cattle, other ruminants and swine kept therein, such rules and regulations to be subject to approval by the governor and council.

SECTION 2. The state board of health, the dairy bureau, and boards of health of cities and towns shall report to the chief of the cattle bureau any and all cases brought to their attention where barns, stables or other enclosures, in which neat cattle, other ruminants or swine are kept, are found to be in an unsanitary condition.

SECTION 3. Whoever prevents or hinders the chief of the cattle bureau or any agent thereof from exercising the powers hereby conferred shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than thirty days.

SECTION 4. Nothing in this act shall be construed to nullify or affect the powers and duties of boards of health conferred upon them by sections sixty-seven to seventy-four, inclusive, of chapter seventy-five of the Revised Laws,[2] and by sections sixty-nine to seventy-two, inclusive, of chapter one hundred and two of the Revised Laws.[3]

REVISED LAWS, 213.

Feeding of Garbage to Milch Cows prohibited.

SECTION 5. Whoever knowingly feeds or has in his possession with intent to feed to a milch cow any garbage, refuse or offal collected by a city or town, or by any person having authority from any city or town, by contract or otherwise, shall be punished by imprisonment for not more than sixty days or by a fine of not more than one hundred dollars; and whoever knowingly feeds or has in his possession with intent to feed to any food animal, except swine, any garbage, refuse or offal collected by a city of more than thirty thousand inhabitants, by contract or otherwise, shall be punished by imprisonment for not more than thirty days or by a fine of not more than fifty dollars. 1889, 326. 1895, 385.

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[1] The powers of the chief of the Cattle Bureau were transferred to the Commissioner of Animal Industry by 1912, 608, § 4.

[2] See Manual of Health Laws, pages 114–116.

[3] See Manual of Health Laws, pages 177, 178.

ACTS OF 1911, 506.

Medical Milk Commissions.

SECTION 1. For the purpose of supervising the production of milk intended for sick room purposes, infant feeding, use in hospitals and for other uses, any five or more physicians, duly authorized to practise medicine under the laws of this commonwealth may form a corporation in the manner provided by and subject to the provisions of chapter one hundred and twenty-five of the Revised Laws. The members of the board of health of any city or town in which such corporation is formed shall be ex officiis members of the corporation.

SECTION 2. The name of any corporation organized under the provisions of this act shall be "Medical Milk Commission of ", designating the name of the city or town in which such corporation is established, and in case more than one corporation shall be organized under this act in any city or town the subsequent corporation or corporations shall use the name designated herein, but shall indicate in such name its proper sequence in incorporation by adding thereto the words "Number Two" or "Number Three" or as the case may be.

SECTION 3. No member of any corporation organized under this act shall receive directly or indirectly from such corporation, or from any dairyman or dairymen producing milk under agreement with the corporation, any salary or emolument or any compensation of any kind for any services rendered as a member of such corporation, or for any services rendered under the provisions of this act; and any member of such a corporation who shall receive any salary, emolument or compensation of any kind for such services shall be liable to a fine of one hundred dollars, and in addition thereto he shall be removed from his office as a member of said corporation and shall thereafter be disqualified from becoming a member of any corporation incorporated under the provisions of this act.

SECTION 4. Every corporation organized under this act shall have power to enter into agreements in writing with any dairyman or dairymen for the production of milk under the supervision of such corporation for the purposes named in section one and to prescribe in such agreements the conditions under which such milk shall be produced, which conditions, however, shall not fall below the standards of purity and quality for certified milk as fixed by the American Association of Medical Milk Commissions and the standards for milk now or hereafter fixed by the laws of the commonwealth.

SECTION 5. The working methods of any corporation organized under this act and the dairies in which milk is produced under contract with any such corporation shall at all times be subject to investigation by the state board of health.

SECTION 6. No person, firm, association or corporation shall sell or exchange, or offer or expose for sale or exchange as and for certified milk any milk which does not conform to the regulations prescribed by and

bear the certification of a corporation organized under the provisions of this act. Any person, firm, association or corporation violating any provision of this section shall be guilty of a misdemeanor, and shall be liable to a fine of not more than one hundred dollars for each offence.

Acts of 1911, 278.

Milk Distributing Stations in Cities and Certain Towns.

The boards of health of cities, and of towns having ten thousand or more inhabitants are hereby authorized, when they deem it advisable for the public health, to establish in such cities and towns stations for the distribution of milk, either free of charge in cases of necessity, or at such charge and under such conditions, rules and regulations as the board may establish; but this act shall not be construed to permit the said boards of health to engage in a general milk business.

Cream.

Acts of 1907, 216.

Standard established.

Whoever, himself or by his agent, or as the servant or agent of another person, sells, exposes for sale, or has in his custody or possession with intent to sell, cream containing less than fifteen per cent milk fat shall for a first offence be punished by a fine of not more than fifty dollars; for a second offence by a fine of not less than fifty nor more than one hundred dollars; and for a subsequent offence by a fine of not less than one hundred nor more than two hundred dollars.

Ice Cream.

Acts of 1913, 743.

Manufacture and Sale of Ice Cream.

Section 1 (as amended by 1914, 67, § 1). Substances manufactured or sold under the general name of "ice cream" shall contain not less than seven per cent of milk fat, and if flavored with fruit shall be flavored only with sound, clean, matured fruit, and if containing nuts shall contain only sound, matured, non-rancid nuts.

Section 2 (as amended by 1914, 67, § 2). Whoever, by himself or by his servant or agent, or as the servant or agent of another person, manufactures, exposes for sale, or has in his custody or possession with intent to sell, or sells, under the general name of "ice cream", substances in violation of section one of this act shall be punished by a fine not exceeding one hundred dollars.

Section 3. Inspectors of milk shall have the same authority in regard to any suspected violation of any provision of this act and relative to the enforcement thereof which they have under section forty-two of chapter fifty-six of the Revised Laws.[1]

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[1] *Supra.*

Oleomargarine, Imitation Cheese and Renovated Butter.

Revised Laws, 56.

Definition of "Oleomargarine," "Butter" and "Cheese."

Section 35. For the purposes of sections thirty-six to forty-seven, inclusive, the word "oleomargarine" shall, in addition to its ordinary meaning, include "butterine", "imitation butter" and any article, substance or compound made in imitation or semblance of butter or as a substitute for butter and not made exclusively and wholly of milk or cream, or containing any fats, oils or grease not produced from milk or cream, and for the purposes of sections thirty-seven, thirty-eight and forty-one to forty-seven,[1] inclusive, the terms "butter" and "cheese" shall mean the products which are usually known by these names and are manufactured exclusively from milk or cream, with salt and rennet, and with or without coloring matter.

1881, 292, § 5. P. S. 56, § 21.

Oleomargarine to be marked.

Section 36. Whoever, himself or by his agent, sells, exposes for sale or has in his possession with intent to sell, oleomargarine shall have the word "*oleomargarine*" or "*butterine*" stamped, labelled or marked, so that said word cannot be easily defaced, upon the top, side and bottom of every tub, firkin, box or package containing any of said oleomargarine. Whoever, himself or by his agent, exposes or offers for sale oleomargarine not in the original package shall attach thereto in a conspicuous place a label bearing the words "*imitation butter*", or the word "*oleomargarine*" or "*butterine*". In retail sales of oleomargarine not in the original package the seller shall attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "*imitation butter*", or the word "*oleomargarine*" or "*butterine*". All said stamps, labels and marks shall be printed in letters in a straight line of plain, uncondensed gothic type, not less than one half inch in length.

1878, 106, § 1.	1884, 310, § 1.	148 Mass. 174.
1881, 292, § 1.	1885, 352, § 1.	150 Mass. 328.
P. S. 56, § 17.	1886, 317, § 1.	157 Mass. 405, 408.

The cover, if marked, need not be kept on the tub. Commonwealth *v.* Bean, 148 Mass. 172.

The fact that the failure to mark is through inadvertence is no defense. Commonwealth *v.* Gray, 150 Mass. 327.

One who is storing oleomargarine with the intention of marking it properly is not guilty under this section. Commonwealth *v.* Mills, 157 Mass. 405; Commonwealth *v.* McDonnell, 157 Mass. 407.

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[1] *Infra.*

Imitation Cheese to be marked.

SECTION 37. Whoever, himself or by his agent, sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound, made in imitation or semblance of cheese or as a substitute for cheese, and not made exclusively and wholly of milk or cream, or containing any fats, oils or grease not produced from milk or cream, shall have the words "*imitation cheese*" stamped, labelled or marked in printed letters of plain, uncondensed gothic type, not less than one inch in length, so that said words cannot be easily defaced, upon the side of every cheese-cloth or band around the same, and upon the top and side of every tub, firkin, box or package containing any of said article, substance or compound. In retail sales of any of said article, substance or compound not in the original packages, the seller shall attach to each package so sold at retail, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "*imitation cheese*", in printed letters of plain uncondensed gothic type, not less than one half inch in length.

1881, 292, § 2. P. S. 56, § 18. 1885, 352, § 2.

Removal of Marks and Use of Words "Creamery," "Dairy," etc., on Packages of Oleomargarine and Imitation Cheese prohibited.

SECTION 38. Whoever sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound made in imitation or semblance of butter or cheese or as a substitute for butter or cheese, except as provided in the two preceding sections, and whoever, with intent to deceive, defaces, erases, cancels or removes any mark, stamp, brand, label or wrapper provided for in said sections, or in any manner shall falsely label, stamp or mark any box, tub, article or package marked, stamped or labelled as aforesaid, or whoever, himself or by his agent, sells, exposes for sale, or has in his possession with intent to sell, oleomargarine, contained in any box, tub, article or package, marked or labelled with the word "*dairy*", or the word "*creamery*", or the name of any breed of dairy cattle, shall for the first offence forfeit one hundred dollars, and for each subsequent offence two hundred dollars to the use of the city or town in which the offence was committed.

1878, 106, § 2. 1881, 292, § 3. 1886, 317, §§ 2, 3.
1880, 199. P. S. 56, § 19. 1894, 280, § 1.

Peddlers of Oleomargarine shall be licensed.

SECTION 39. Every person who conveys oleomargarine in carriages or otherwise, for the purpose of selling the same in any city or town, shall annually, in May, be licensed by an inspector of milk of such city or town to sell the same within the limits thereof, and shall pay therefor to such inspector fifty cents to the use of the city or town. The inspector shall pay over monthly to the treasurer of such city or town all money collected by him. In towns in which there is no inspector of milk, li-

censes shall be issued by the town clerk. Licenses shall be issued only in the names of the owners of carriages or other vehicles, and shall be conclusive evidence of ownership. No license shall be sold, assigned or transferred. Each license shall be numbered and shall state the name, residence, place of business, number of carriages or other vehicles used, and the name and residence of every driver or other person engaged in carrying oleomargarine. Each licensee shall before engaging in the sale of oleomargarine cause his name, the number of his license and his place of business to be legibly placed on each outer side of all carriages or vehicles used by him in the conveyance and sale thereof, in gothic letters not less than one inch in length, and he shall report to the inspector any change of driver or other person employed by him which may occur during the term of his license. Whoever, without being first licensed, sells oleomargarine, or exposes or offers it for sale from carriages or other vehicles or has it in his custody or possession with intent so to sell, and whoever violates any of the provisions of this section, shall, for a first offence, be punished by a fine of not less than thirty nor more than one hundred dollars, and, for a second offence, by a fine of not less than fifty nor more than three hundred dollars. 1886, 317, § 4.

The section applies only to sales from vehicles. Commonwealth *v.* Lutton, 157 Mass. 392.

Storekeepers dealing in Oleomargarine shall be registered.

Section 40. Every person, before selling or offering for sale oleomargarine in a store, booth, stand or market-place in a city or in a town in which an inspector of milk is appointed, shall annually, in May, register in the books of such inspector, or if there is no inspector then in the books of the town clerk, his name and proposed place of sale, and shall pay fifty cents for the registering to the use of such city or town. Whoever neglects so to register shall be punished by a fine of not more than twenty dollars. 1886, 317, § 5.

Manufacture, Possession or Sale of Any Article made in Imitation of Yellow Butter prohibited.

Section 41. Whoever, himself or by his agent or servant, renders, manufactures, sells, offers for sale, exposes for sale, takes orders for the future delivery of, has in his possession, keeps in storage, distributes, delivers, transfers or conveys with intent to sell, within the commonwealth, any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be in imitation of yellow butter produced from pure unadulterated milk or cream of the same, shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than one year; but the provisions of this section shall not prohibit the manufacture or sale of oleomargarine in a separate and distinct form and in such

manner as will inform the consumer of its real character, free from any coloration or ingredient which causes it to look like butter.

1891, 58, §§ 1, 2.	156 Mass. 236.	163 Mass. 169.
1894, 280, § 6.	158 Mass. 172.	176 Mass. 132.
1896, 377, § 1.	162 Mass. 520.	155 U. S. 461, 462.

This section is constitutional and is not repealed by section 43. Commonwealth *v.* Huntley, 156 Mass. 236; Plumley *v.* Massachusetts, 155 U. S. 461; Commonwealth *v.* Kelly, 163 Mass. 169.

For matters of pleading and evidence, see 158 Mass. 172; 162 Mass. 520; 176 Mass. 132.

Powers and Duties of Milk Inspectors in enforcing Laws relative to Oleomargarine, etc.

SECTION 42. Inspectors of milk shall, if they have reasonable cause to believe that the provisions of sections thirty-six to forty-seven, inclusive, have been violated, and on the information of any person who lays before them satisfactory evidence by which to sustain such complaints, institute complaints for violations of said sections. They may enter all places in which butter, cheese or imitations thereof are stored or kept for sale, and shall take samples of suspected butter, cheese or imitations thereof and cause them to be analyzed or otherwise satisfactorily tested, and shall record and preserve the result of such analysis or test as evidence. Before commencing the analysis of any sample in proceedings under sections thirty-six, thirty-seven and thirty-eight, the analyst shall reserve and seal a portion of the sample, and, upon a complaint against any person, such reserved portion of the sample alleged to be adulterated shall, upon application, be delivered to the defendant or his attorney. The expense of such analysis or test, not exceeding twenty dollars in any one case, may be included in the expenses of such prosecutions. Whoever hinders, obstructs or in any way interferes with an inspector or his agent in the performance of his duty under the provisions of this section shall be punished by a fine of fifty dollars for the first offence and of one hundred dollars for each subsequent offence.

1881, 292, § 4.	1884, 310, §§ 2, 4.	132 Mass. 12.	177 Mass. 67.
P. S. 56, § 20.	1891, 58, § 3.	176 Mass. 132.	

In a complaint under section 41 the reserving of a portion of the sample is not required. Commonwealth *v.* Ryberg, 177 Mass. 67.

Sale of Oleomargarine when Butter is called for prohibited.

SECTION 43. Whoever, himself or by his agent, sells or offers for sale to any person who asks, sends or inquires for butter, any oleomargarine, shall be punished by a fine of one hundred dollars for each offence.

1891, 412, § 1.	1894, 280, § 2.	156 Mass. 236.	155 U. S. 461.

Marks required on Tubs, etc.

SECTION 44. Whoever exposes for sale oleomargarine which is not marked and distinguished by all the marks, words and stamps required by law, and does not have upon the exposed contents of every open tub,

package or parcel thereof a conspicuous placard with the word "*oleomargarine*" printed thereon in plain, uncondensed gothic letters, not less than one inch long, shall be punished by a fine of one hundred dollars for each offence.

1891, 412, § 2. 1894, 280, § 3. 148 Mass. 172. 150 Mass. 327.

Placard required in Store where Oleomargarine is sold.

SECTION 45. Whoever sells oleomargarine from any dwelling, store, office or public mart which does not have conspicuously posted thereon the placard or sign, in letters not less than four inches in length, "*oleomargarine sold here*", or "*butterine sold here*", approved by the dairy bureau, shall be punished by a fine of one hundred dollars for the first offence and one hundred dollars for each day's neglect after conviction for the first offence. 1891, 412, § 3. 156 Mass. 236, 239.

Placard required on Cart from which Oleomargarine is peddled.

SECTION 46. Whoever, himself or by his agent, peddles, sells, solicits orders for the future delivery of or delivers from any cart, wagon or other vehicle, oleomargarine, not having on both sides of said cart, wagon or other vehicle the placard in uncondensed gothic letters, not less than three inches in length, "*licensed to sell oleomargarine*" shall be punished by a fine of one hundred dollars or by imprisonment for thirty days for each offence.

1891, 412, § 4. 1894, 280, § 4. 158 Mass. 218. 162 Mass. 506.

The section is not complied with by placing the placards on the sides of the wagon, *inside the covering of the wagon.* Commonwealth *v.* Crane, 158 Mass. 218.

The section applies to all kinds of oleomargarine. Commonwealth *v.* Crane, 162 Mass. 506.

Persons served with Oleomargarine in Restaurants shall be notified.

SECTION 47. Whoever furnishes oleomargarine or causes it to be furnished in any hotel, restaurant or boarding house or at any lunch counter, to a guest or patron thereof, instead of butter, without notifying said guest or patron that the substance so furnished is not butter shall be punished by a fine of not less than ten nor more than fifty dollars for each offence. 1891, 412, § 5. 1896, 377, § 2. 159 Mass. 113.

Actual notice is necessary. If the notice is upon a sign or bill of fare which the patron does not read, the notice is not given. Commonwealth *v.* Stewart, 159 Mass. 113.

Disposition of Fines.

SECTION 50. All fines recovered under the provisions of sections forty-three, forty-four, forty-five, forty-six and forty-seven shall be payable to the commonwealth. 1891, 412, § 12.

Renovated Butter to be marked.

SECTION 48 (as amended by 1903, 361). Whoever, himself or by his agent, or as the servant or agent of another person, sells, exposes for sale or has in his custody or possession with intent to sell, any article or compound which is produced by taking original packing stock or other butter, or both, melting the same, so that the butter fat can be drawn off, mixing the said butter fat with skimmed milk, or milk, or cream, or other milk product, and rechurning the said mixture, or by any similar process, and is commonly known as process butter, shall have the words "*renovated butter*" conspicuously stamped, labelled or marked, in a straight line in printed letters, not less than one half inch in length, of plain, uncondensed gothic type, so that said words cannot be easily defaced, upon the top, side and bottom of every tub, firkin, box or package containing said article or compound. The seller at retail of said article or compound, which is not in the original package, shall himself or by his agent, attach to each package so sold and deliver therewith to the purchaser a label or wrapper bearing in a conspicuous place upon the outside of the package the words "*renovated butter*" in printed letters not less than one half inch in length, in a straight line of plain, uncondensed gothic type. Whoever violates any provision of this section shall for a first offence be punished by a fine of not less than twenty-five nor more than one hundred dollars, for a second offence by a fine of not less than one hundred nor more than three hundred dollars, and for a subsequent offence by a fine of five hundred dollars or by imprisonment for not less than sixty nor more than ninety days. 1899, 340.

LARD.

REVISED LAWS, 56.

Wrappers of Adulterated Lard to be marked, and the Words "Pure," "Refined" and "Family" may not be used.

SECTION 49. No person shall sell, deliver, prepare, put up, expose or offer for sale any lard, or any article intended for use as lard, which contains any ingredient except the pure fat of swine, in any tierce, bucket, pail or other vessel or wrapper, or under any label, bearing the words "*pure*", "*refined*", "*family*", or either of them, alone or in combination with other words; but every vessel, wrapper or label in or under which such article is sold, delivered, prepared, put up or exposed for sale by him shall bear on the top or outer side thereof, in letters not less than one half inch in length and plainly exposed to view, the words "*compound lard*". Whoever violates the provisions of this section shall be punished by a fine of not more than fifty dollars for the first offence or of not more than one hundred dollars for a subsequent offence.

1887, 449.

Vinegar.

Revised Laws, 57.

Penalty for selling Adulterated Vinegar.

Section 66 (as amended by 1911, 600, § 1). Whoever, himself or by his servant or agent or as the servant or agent of another person, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver, or exposes or offers for sale or exchange adulterated vinegar, or whoever labels, brands, or sells as cider vinegar or as apple vinegar, any vinegar not the exclusive product of the alcoholic and subsequent acetous fermentation of the pure juice of fresh apples, shall be punished by a fine of not more than one hundred dollars.

1880, 113, § 1. P. S. 60, § 69. 1883, 257, § 1. 1884, 307, §§ 1, 4.

Qualities of Vinegar defined.

Section 67 (as amended by 1911, 600, § 2, and by General Acts of 1915, 239). Vinegar shall contain no added or artificial coloring matter, and shall contain not less than four and one half per cent, by weight, of absolute acetic acid. Cider vinegar shall in addition contain not less than one and eight tenths per cent, by weight, of cider vinegar solids. If vinegar contains any added or artificial coloring matter, or less than the required amount of acidity, or if cider vinegar contains less than the required amount of acidity or of cider vinegar solids, it shall be deemed to be adulterated. The commissioner of health shall determine or cause to be determined, from time to time, analytical methods for the estimation of solids and of acetic acid in vinegar, and said methods shall be published in the monthly bulletin of the state department of health. No persons shall estimate the solids or the acetic acid content of vinegar for determining the composition or value of said vinegar as a basis for payment in buying or in selling, or for the purpose of inspection, by methods other than those published as herein described.

1884, 307, § 2. 1885, 150.

Penalty for selling Poisonous Vinegar.

Section 68. Every person who manufactures for sale, or offers or exposes for sale, any vinegar found upon proper tests to contain any preparation of lead, copper, sulphuric acid or other ingredient injurious to health shall for each offence be punished by a fine of not less than one hundred dollars. 1880, 113, § 2. P. S. 60, § 70.

Acts of 1911, 600.

Labels upon Containers of Vinegar.

Section 3 (as amended by General Acts of 1915, 158). Each cask, barrel or other container used by a manufacturer or producer of or wholesale dealer in vinegar, to contain vinegar sold or offered for sale, shall be plainly marked with the name and place of business of the said manu-

facturer, producer or wholesale dealer, the kind of vinegar contained therein, the substance or substances from which the vinegar is made, and cider vinegar, if diluted with water, shall be distinctly and conspicuously labelled to indicate this fact, as for example. "Diluted to Legal Strength." Every compound or mixture or blend of vinegar shall be marked with the word "compound" or "mixture", with a statement of its constituents and the percentage of each constituent. The principal label, including the word "compound" or "mixture", if used on vinegar in wooden packages, shall be in Roman letters not less than one inch high, properly spaced and in straight parallel lines with no more than two inches of space between each line. The marking of vinegar in other containers than wooden packages shall be governed by the provisions of sections eighteen and nineteen of chapter seventy-five of the Revised Laws.[1] Whoever, himself, or by his servant, or agent, violates any provision of this section shall be punished by a fine of not more than one hundred dollars.

Enforcement of Law.

SECTION 4. All officers or persons whose duty it is to enforce the laws relating to food and milk, shall enforce the laws relating to vinegar, and all statutes relating to food shall apply to vinegar so far as they may be applicable.

NOTE. — At a meeting of the State Department of Health held on July 6, 1915, it was voted to make the following regulations relative to the methods for the estimation of total solids and acetic acid in vinegar: —

According to the provisions of chapter 239 of the General Acts of 1915, the following are hereby declared, until further notice, to be the methods for the estimation of the solids and the acid content of vinegar, for determining the composition or value of said vinegar as a basis for payment in buying or in selling, or for the purpose of inspection: —

"*Solids.* — Measure 10 cubic centimeters of filtered vinegar into a tared flat-bottom platinum dish of 50 millimeters diameter, evaporate on the water bath to a thick syrup and dry for exactly two and one-half hours in the drying oven at the temperature of boiling water; cool and weigh. It is essential to use a flat-bottom.

"*Total Acids.* — Titrate a suitable amount of the sample, which has been diluted until it appears very slightly colored, with standard alkali, using phenolphthalein as indicator. One cubic centimeter of tenth-normal alkali is equivalent to 0.0060 gram of acetic acid."

All weights and measures, if used by a chemist of recognized standing, must have been standardized by himself, and if used by other than a chemist of recognized standing must have been standardized by the Bureau of Standards at Washington, D. C. All alkali used in the estimation of the acid content of vinegar must have been standardized by a chemist of recognized standing.

ALLAN J. MCLAUGHLIN, M.D.,
Commissioner of Health.

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[1] See pages 5, 7.

Meat.

Revised Laws, 90.

Regulations for Inspection of Meat.

Section 7 (as amended by 1911, 297, § 1). The state board of health may make regulations for the inspection of meat, which shall conform to the regulations of the United States bureau of animal industry for the inspection of meat for export and for interstate commerce.

Cf. 1902, 116, § 3, and 1912, 608, § 4. 1898, 451, § 2. 1899, 408, § 9.

For a discussion of State regulations affecting interstate commerce, see Commonwealth *v.* Moore, 214 Mass. 19.

Revised Laws, 75.

Slaughtering, Canning, Rendering and Other Establishments, and Sausage Factories, shall be licensed annually.

Section 99. The proprietor of every slaughter house, canning, salting, smoking or rendering establishment, and of every establishment used for the manufacture of sausages or chopped meat of any kind, who is engaged in the slaughter of neat cattle, sheep or swine, the meat or product of which is to be sold or used for food, shall annually in April apply for a license to the mayor and aldermen of the city, the selectmen of the town or, in a town having a population of more than five thousand, to the board of health, if any, in which such slaughter house or establishment is located. The application shall be in writing, signed and sworn to by one or more of the owners or by one or more of the persons carrying on such business, or, if a corporation, by some authorized officer thereof, shall state the name and address of all the owners or persons carrying on said business, the location of the slaughter house or establishment in which said business is to be conducted, the estimated number of neat cattle, sheep or swine to be slaughtered per week, the days of the week upon which they are to be slaughtered and the nature of the products thereof to be sold or used for food.

1894, 491, § 17. 1895, 496, § 3. 1897, 428, § 2. 109 Mass. 315, 320.

The section is constitutional. Watertown *v.* Mayo, 109 Mass. 315.

License shall be in Force for One Year, unless sooner revoked or rendered Void. Record. Fee.

Section 100 (as amended by 1911, 297, § 2). The mayor and aldermen, selectmen, or such other officers as they shall designate, or in a town having a population of more than five thousand, the board of health, if any, may annually issue licenses to carry on the business of slaughtering neat cattle, sheep or swine to applicants therefor. The fee for each license shall be one dollar. The license shall name the persons licensed to conduct such business, and the building or establishment in which it is to

be carried on, and it shall continue in force until the first day of May of the year next ensuing, unless sooner forfeited or rendered void. A record shall be kept by the board or officers authorized to issue licenses of all applications for licenses under the provisions of the preceding section and of all licenses issued, which shall be evidence of the issue of any such license. Such board or officers shall annually, on or before the first day of June, send to the state board of health a copy of every application made to them under the provisions of the preceding section and their action thereon, and a list of all persons with their addresses, who although engaged in the business named in the preceding section on the last day of the previous April, failed to make application for a license.

1894, 491, § 18. 1895, 496, § 4. 1897, 428, § 2. 1902, 116. 1907, 243, § 1.

A license to slaughter granted by the mayor and aldermen under this section is not good against a prohibition by the board of health under R. L., c. 75, § 91 (p. 178). Cambridge *v.* Trelegan, 181 Mass. 565.

Slaughtering shall be done only on Specified Days, except in the Presence of Certain Officials.

SECTION 101 (as amended by 1911, 297, § 3, and by 1911, 534, § 1). A licensee under the provisions of the preceding section [1] shall not slaughter any such animals, or cause them to be slaughtered at such slaughter house or establishment, on any days other than those specified in the application for such license, except in the presence of a member of the board of health or of an inspector appointed therefor by said board; but he may at any time change the days for slaughtering such animals, by giving at least seven days' written notice thereof to the board or officer authorized to issue licenses, who shall immediately give written notice of such change to such inspector of such city or town.

1894, 491, § 19. 1895, 496, § 5.

ACTS OF 1911, 297 (as amended by 1911, 534, § 2).

Appointment of Inspectors of Slaughtering.

SECTION 6. For the purposes of this act [2] inspectors shall be appointed, shall be compensated, and may be removed in accordance with the provisions of law relating to inspectors of animals, except that the appointment of such inspectors shall be made by the local boards of health and except that in respect to such inspectors the state board of health shall perform the duties and exercise the authority imposed by law upon the chief of the cattle bureau of the state board of agriculture [3] in respect to inspectors of animals. The first appointments under this act shall be made within thirty days after its passage.

(The following sections in italics are inserted to explain the above section.)

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[1] See section 100, *supra*.

[2] *Cf.* R. L., 90, § 7; R. L., 75, §§ 100–103.

[3] The powers of the chief of the Cattle Bureau were imposed upon the Commissioner of Animal Industry by 1912, 608, § 4.

REVISED LAWS, 90.

Relative to the Manner of Appointment of Inspectors of Animals.

Section 12 (as amended by 1911, 143). The mayor and aldermen in cities, except Boston, and the selectmen in towns shall annually, in March, nominate one or more inspectors of animals, and before the first day of April shall send to the chief of the cattle bureau of the state board of agriculture the name, address and occupation of each nominee. Such nominee shall not be appointed until approved by the chief of the cattle bureau of the state board of agriculture. The aforesaid officials of cities and towns may remove any inspector, and shall thereupon immediately nominate another in his place and send notice thereof as prescribed above.

Section 13. A city or town shall, for each refusal or neglect of its officers to comply with the requirements of the preceding section, forfeit not more than five hundred dollars. Said board[1] *may appoint one or more inspectors for such city or town, and may remove an inspector who refuses or neglects to be sworn or who, in the opinion of the board, does not properly perform the duties of his office and may appoint another inspector for the residue of his term.*

Section 14. An inspector shall be sworn to the faithful performance of his official duties, and shall receive a reasonable compensation from the city or town for which he is appointed. If he is appointed by the board of cattle commissioners, his compensation shall be fixed by said board, shall not exceed five hundred dollars a year, and shall be paid by the city or town for which he is appointed. In towns having a valuation of less than two and one-half million dollars, one-half of such compensation, not exceeding two hundred and fifty dollars for each inspector in any one year, shall be paid by the commonwealth.

Section 15. An inspector shall keep a record of all inspections made by him and his doings thereon, and shall make regular returns thereof to the board. The board shall prescribe the form in which and the times at which such records and returns shall be made and it may at any time inspect them and make copies thereof.

Section 16. An inspector shall comply with and enforce all orders and regulations which may be directed to him by the board of cattle commissioners or by any of its members. If he refuses or neglects so to do, he shall be punished by a fine of not more than five hundred dollars.

ACTS OF 1908, 378.

Relative to the Appointment of Inspectors of Animals.

In all cities, at least one of the inspectors of animals appointed under the provisions of section twelve of chapter ninety of the Revised Laws shall be a registered veterinary surgeon.

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[1] Meaning Board of Cattle Commissioners, whose powers were transferred to the Commissioner of Animal Industry by 1912, 608, § 4.

REVISED LAWS, 75.

Inspectors shall be present when Animals are slaughtered, and shall examine All Carcasses then and there.

SECTION 102 (as amended by 1911, 297, § 4). Such inspector as has been appointed by the board of health shall be present at all licensed slaughter houses or establishments upon the days designated for slaughter by the licensee, as provided in the preceding section, and there carefully examine the carcasses of all animals at the time of slaughter. Such inspection shall be made in such manner and under such rules and regulations as the state board of health may determine and direct. If, in the opinion of an inspector, any carcass, or any meat or product thereof is diseased, corrupted, unwholesome or unfit for food, he shall seize it and cause it to be destroyed, as provided in section seventy of chapter fifty-six.[1]

1894, 491, § 20. 1895, 496, § 6. 1902, 116. 203 Mass. 602.

Carcasses shall be stamped with Stamps furnished Boards of Health by the State Department of Health. Stamping of Packages containing Meat.

SECTION 103 (as amended by 1909, 471, by 1911, 297, § 5, and by 1914, 206, § 1). In a slaughtering establishment wherein inspection and branding are not carried on under the rules and regulations for the inspection of live stock and other products, established by the United States department of agriculture in accordance with acts of congress, the carcasses of animals slaughtered under the provisions of the four preceding sections shall at the time of slaughter, if not condemned, be stamped or branded by the inspector thereof in like manner as those inspected by the United States bureau of animal industry for interstate trade, by a stamp or brand designed for the purpose by the state board of health, which shall be furnished by it to the board of health of a city or town applying therefor. All packages containing meats so stamped or branded by the inspector as aforesaid shall, before they have been shipped from the slaughtering establishment, have properly secured to them a tag bearing the words "Massachusetts, Inspected, Passed", which tag may be so attached by the licensee. Such stamps and tags shall be uniform in design throughout the commonwealth, but shall contain the name of the city or town in which they are used. 1901, 391, §§ 1, 2. 1903, 220, § 1.

For a discussion of the relative authority of State and local inspectors, see Commonwealth *v.* Prince, 203 Mass. 602.

Unstamped Carcasses shall be deemed Unfit for Human Food, and shall not be sold.

SECTION 104 (as amended by 1909, 476). The carcasses of animals slaughtered under the provisions of the five preceding sections and not stamped or branded as provided in the preceding section shall be deemed

[1] See page 53.

unfit for human food and shall not be sold or offered for sale. Whoever sells, or offers for sale, or has in his possession with intent to sell, a carcass or any part thereof required by the provisions of the preceding section to be stamped or branded, which has not been stamped or branded as therein provided, or whoever not being a member of a board of health, or a duly appointed inspector stamps or brands a carcass or any part thereof required by the provisions of the preceding section to be stamped or branded, or whoever being a member of a board of health or a duly appointed inspector permits or allows the use of his stamp or brand by one not a member of a board of health or a duly appointed inspector, or whoever counterfeits any stamp or brand required by the provisions of the five preceding sections, or whoever stamps or brands any carcass or any part thereof with any counterfeit stamp or brand, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

1901, 391, §§ 3, 4. 1903, 220, § 1.

A Person not engaged in Slaughtering Business may slaughter his Own Cattle, Sheep and Swine on his Own Premises, without a License. Provisions concerning Inspection.

SECTION 105 (as amended by 1902, 312, § 2, by 1903, 220, § 2, by 1908, 329, § 6, and by 1912, 248, § 2). The provisions of the six preceding sections shall not apply to a person not engaged in such business, who, upon his own premises and not in a slaughter house, slaughters his own neat cattle, sheep or swine, but the carcass of any such animals shall be inspected, and, unless condemned, shall be stamped or branded according to the provisions of section one hundred and three of chapter seventy-five of the Revised Laws, as set forth in chapter two hundred and twenty of the acts of the year nineteen hundred and three, and as amended by chapter four hundred and seventy-one of the acts of the year nineteen hundred and nine and by section five of chapter two hundred and ninety-seven of the acts of the year nineteen hundred and eleven,[1] by an inspector at the time of slaughter. 1894, 491, § 21. 1895, 496, § 7.

Penalties for Violation of Sections 100, 101, 102 and 105, and for Other Acts.

SECTION 106. Whoever violates the provisions of sections one hundred, one hundred and one, one hundred and two and one hundred and five, or, being engaged in the business of slaughtering neat cattle, sheep or swine, slaughters the same, without a license, or knowingly authorizes or causes the same to be slaughtered with intent to sell the meat or product thereof for food, or, having such license, slaughters or knowingly authorizes or causes to be slaughtered any neat cattle, sheep or swine without causing the carcass thereof to be inspected as provided in section one hundred and two, or whoever sells or authorizes or causes to be sold any carcass or the meat or product thereof knowing that such carcass

[1] *Supra.*

has not been inspected according to the provisions of sections one hundred and two and one hundred and five, or whoever slaughters or knowingly authorizes or causes to be slaughtered any neat cattle, sheep or swine upon his own premises other than a slaughter house or establishment mentioned in section ninety-nine,[1] without causing the carcass of such animal to be inspected, except as provided in the preceding section, or whoever sells, or authorizes or causes to be sold, the carcass or any meat or product thereof of any such animal slaughtered upon his own premises, knowing that the same has not been inspected as provided in the preceding section, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

1894, 491, § 22. 1895, 496, § 8.

Conviction renders License void.

SECTION 107. A conviction under the provisions of the preceding section of any person licensed under the provisions of section one hundred shall render his license void, and no new license shall be granted to him for the balance of the term. 1894, 491, § 23.

ACTS OF 1912, 248.

The Stamping or Branding of Carcasses of Neat Cattle, Sheep or Swine slaughtered outside the Commonwealth.

SECTION 1. Carcasses of neat cattle, sheep or swine slaughtered without the commonwealth shall be deemed unfit for human food and shall not be sold or offered for sale unless they have been inspected at the time of slaughter by an official inspector, and unless, if not condemned, they have been stamped or branded by said inspector in like manner as those inspected by the United States Bureau of Animal Industry for interstate trade. By "official inspector" is meant one appointed or approved either (*a*) by the Bureau of Animal Industry of the United States Department of Agriculture; or (*b*) by the state board of health of the state in which the animals are slaughtered; or (*c*) by the local board of health of the city or town in which the animals are slaughtered. The stamp used by inspectors other than those of the Bureau of Animal Industry of the United States Department of Agriculture shall indicate in letters not less than one fourth of an inch high the name of the city or town in which the animals are slaughtered. Whoever sells or offers for sale, or has in his possession with intent to sell, a carcass, or any part thereof, required by the provisions of this section to be stamped or branded which has not been stamped or branded as herein provided, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

This section was held constitutional in Commonwealth *v.* Moore, 214 Mass. 19.

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[1] See page 46.

ACTS OF 1908, 329.

The Slaughter of Animals and the Inspection and Sale of Carcasses thereof.

SECTION 1. The sale, offer or exposure for sale, or delivery for use as food, of the carcass, or any part or product thereof, of any animal which has come to its death in any manner or by any means otherwise than by slaughter or killing while in a healthy condition, or which at the time of its death is unfit by reason of disease, exhaustion, abuse, neglect or otherwise for use as food, or of any calf weighing less than forty pounds when dressed, with head, feet, hide and entrails removed, is hereby declared to be unlawful and prohibited. Whoever sells or offers or exposes for sale or delivers or causes or authorizes to be sold, offered or exposed for sale or delivered for use as food any such carcass or any part or product thereof, shall be punished by fine of not more than two hundred dollars or by imprisonment for not more than six months.

SECTION 2. The state board of health and its inspectors, and the state inspectors of health and all boards of health of cities and towns and their inspectors, officers, agents and assistants in their respective districts, shall have and exercise the same powers and duties in and for the enforcement of this act as are at any time conferred or imposed by law upon any board of health, inspector, officer, agent or assistant in respect of any other article or substance the sale or use of which for food is unlawful or prohibited; and it shall be their duty to seize any such carcass or part or product thereof as described in section one hereof, and cause the same to be destroyed forthwith or disposed of otherwise than for food; and all moneys received by any board of health for any property so disposed of shall, after deducting the expenses of such seizure and disposal, be paid to the owner of such property if known.

SECTION 3. Such inspectors, officers, agents and assistants shall visit and keep under observation all places within their respective districts at which neat cattle, sheep, swine or other animals intended for slaughter or for sale or use as food are delivered from transportation, and shall have at all times free access to all such places and to all railroad trains or cars or other vehicles in which such animals may be transported, for the purpose of preventing violations of this act and of detecting and punishing the same.

SECTION 4. The state inspectors of health in their respective districts, and the inspectors appointed by the state board of health for duties relative to the sale of food and drugs, shall have the same rights, powers and authority for and in respect of the inspection, seizure and disposition of all carcasses, meats and provisions which are tainted, diseased, corrupted, decayed, unwholesome, or from any cause unfit for food, or the sale of which for food is unlawful, as are conferred by sections seventy and seventy-one of chapter fifty-six [1] and by section one hundred and

[1] See pages 53, 54.

two of chapter seventy-five of the Revised Laws,[1] or by other laws, upon boards of health of cities and towns or their inspectors in respect of the articles therein specified; with power to prosecute all offences relating thereto.

SECTION 5. In addition to the supervision now provided for by law, all slaughter houses shall be under the supervision of the state board of health and subject to inspection by the state inspectors of health in their respective districts.

SECTION 7. Nothing in this act shall affect or impair the rights, powers or authority of any board or officer not herein mentioned.

SECTION 8 (added by 1909, 474). This act shall not affect the provisions of section seven of chapter ninety of the Revised Laws, as affected by section three of chapter one hundred and sixteen of the acts of the year nineteen hundred and two:[2] *provided, however,* that nothing in this act shall be construed to permit the sale, offer for sale, or keeping with intent to sell, for food, of meat infected in any degree with tuberculosis or any other disease.

For a discussion of the laws relating to slaughtering and inspection of meat, see 3 Op. Atty.-Gen. 208, which holds that the laws do not permit meat derived from the carcasses of cattle infected to any degree with tuberculosis, or with any other disease, to be sold as food within this Commonwealth.

MEAT AND PROVISIONS; EGGS.

REVISED LAWS, 56.

Boards of Health may inspect All Meat, Fish, Vegetables, and Other Provisions.

SECTION 70 (as amended by 1908, 411, § 1, by 1912, 448, and by 1914, 627). Boards of health of cities and towns, by themselves, their officers or agents, may inspect the carcasses of all slaughtered animals and all meat, fish, vegetables, produce, fruit or provisions of any kind found in their cities or towns, and for such purpose may enter any building, enclosure or other place in which such carcasses or articles are stored, kept or exposed for sale. If, on such inspection, it is found that such carcasses or articles are tainted, diseased, corrupted, decayed, unwholesome or, from any cause, unfit for food, the board of health shall seize the same and cause it or them to be destroyed forthwith or disposed of otherwise than for food. All money received by the board of health for property disposed of as aforesaid shall, after deducting the expenses of said seizure, be paid to the owner of such property. If the board of health seizes or condemns any such carcass or meat for the reason that it is affected with a contagious disease, it shall immediately give notice to the board of cattle commissioners[3] of the name of the owner or person in whose possession it was found, the nature of the disease and the disposition made of said meat or carcass.

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[1] See page 49. [2] See page 46.

[3] The powers of the board were imposed upon the Commissioner of Animal Industry by 1912, 603, § 4.

Boards of health of cities and towns may make and enforce reasonable rules and regulations, subject to the approval of the state board of health, as to the conditions under which all articles of food may be kept for sale or exposed for sale, in order to prevent contamination thereof and injury to the public health. Before the board of health of any city or town submits such rules and regulations to the state board of health for approval, it shall hold a public hearing thereon, of which notice shall be given by publication for two successive weeks, the first publication to be at least fourteen days prior to the date of the hearing, in a newspaper published in such city or town, or, if none is so published, in a newspaper published in the county in which such city or town is located. Any person affected by such rules and regulations, in the form in which they are presented to the state board of health for approval, may appeal to the said board for a further hearing, and said board shall not grant its approval to rules and regulations concerning which such an appeal has been taken until it has held a public hearing thereon, advertised in the manner specified above in this section with reference to hearings before boards of health in cities and towns. No regulation adopted in accordance with this act shall be construed as preventing the exposure of food articles for sale at retail in the Boston "market limits", as defined in the ordinances of the city of Boston of the year eighteen hundred and ninety-eight, on Saturdays or the day immediately preceding any holiday observed in Boston, but no area in said "market limits" where food articles are not at the time of the passage of this act exposed for sale at retail on these days shall be occupied for the exposure of food articles without a permit from the board of health. Whoever violates any rule or regulation of a board of health of a city or town approved by the state board of health shall be punished by a fine of not more than one hundred dollars.

1872, 231, § 2. 1876, 180, § 2. 1892, 195, § 2. 1899, 408, § 20.
1875, 29, § 2. P. S. 58, § 2. 1894, 491, §§ 10, 11, 13.

Inspection of Veal. Seizure.

SECTION 71 (as amended by 1908, 411, § 2). The board of health, by themselves, their officers or agents, may inspect all veal found, offered or exposed for sale or kept with the intent to sell in its city or town and if, in its opinion, said veal is that of a calf less than four weeks old when killed, the board shall seize and destroy or dispose of it as provided in the preceding section, subject, however, to the provisions thereof relative to the disposal of money.

1866, 253, § 1. 1875, 29, § 3. P. S. 58, § 3: 208, § 2. 1899, 408, § 20.
1872, 231, § 3. 1876, 180, § 3. 1894, 491, § 12.

Penalty for obstructing Inspector, etc.

SECTION 72 (as amended by 1908, 411, § 3). Whoever prevents, obstructs or interferes with the board of health, its officers or agents, in the performance of its duties as provided herein, or hinders, obstructs or

interferes with any inspection or examination by it or them, or whoever secretes or removes any carcass, meat, fish, vegetables, fruit or provisions of any kind, for the purpose of preventing the same from being inspected or examined under the provisions of sections seventy to seventy-six, inclusive, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment. P. S. 58, § 2. 1894, 491, § 13.

Sale of Unwholesome Food. Penalties.

SECTION 73. Whoever knowingly sells, offers or exposes for sale or has in his possession with intent to sell for food any diseased animal or any product thereof, or any tainted, diseased, corrupted, decayed or unwholesome carcass, meat, fish, vegetables, produce, fruit or provisions of any kind shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment; and whoever knowingly sells any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, without making their condition fully known to the buyer shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months.

1784, 50.	1872, 231, § 5.	P. S. 58, § 5; 208, § 1.	11 Pick. 484.
R. S. 131, § 1.	1875, 29, § 5.	1894, 491, § 15.	12 Cush. 499.
G. S. 166, § 1.	1876, 180, § 5.	1 Pick. 524.	

The guilty intent is a necessary element in the offence which this section prohibits. Hemmenway *v.* Woods, 1 Pick. 524; Commonwealth *v.* Boynton, 12 Cush. 499. It is unnecessary to prove damage. Peckham *v.* Holman, 11 Pick. 484.

ACTS OF 1907, 293.

Section 73 not to apply in Certain Cases.

SECTION 1. The provisions of section seventy-three of chapter fifty-six of the Revised Laws shall not apply to persons, firms or corporations engaged in the wholesale fruit and vegetable business, who, at the time of sale of fruit or vegetables in the original package, make known to the purchaser the partly decayed condition of the articles in said packages.

REVISED LAWS, 56.

Board of Health may cause Publication of Certain Facts.

SECTION 75. The board of health for the city or town in which any animal or property has been condemned under the provisions of sections seventy and seventy-one may cause a description of the place in which such condemned property was found, the name of every person in whose possession it was found and the name of every person convicted of an offence under the provisions of the two preceding sections to be published in two newspapers published in the county in which such property was found.

1872, 231, § 6.	1875, 29, § 6.	1876, 180, § 6.	P. S. 58, § 6.	1894, 491, § 16.

ACTS OF 1913, 687.

The Sale of Unwholesome Food.

SECTION 1. Whoever sells or offers for sale for food or drink any diseased animal or any product thereof or any tainted, diseased, corrupt, decayed or unwholesome carcass, meat, fish, vegetables, produce, fruit or provisions of any kind, except when packed in such a container that, upon reasonable inspection, the condition of the contents thereof cannot be ascertained, without making the condition of the thing sold or offered for sale fully known to the buyer shall be punished by a fine of not more than two hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

REVISED LAWS, 56.

Sale of Immature Veal forbidden.

SECTION 74. Whoever kills or causes to be killed or knowingly sells, offers or exposes for sale or has in his possession with intent to sell for food the veal of a calf killed when less than four weeks old shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

1855, 239.	1872, 231, § 5.	P. S. 208, § 2.
G. S. 103, § 2.	1875, 29, § 5.	1894, 491, § 15.
1866, 253, § 1.	1876, 180, § 5.	97 Mass. 567.

The person who kills, or causes to be killed, a calf less than four weeks old for the purpose of sale is guilty, whether or not he knows the calf to be less than four weeks old. The person who sells the veal is not guilty unless he knows the calf to be less than four weeks old. Commonwealth *v.* Raymond, 97 Mass. 567.

ACTS OF 1912, 467.

Relative to the Possession of the Carcasses of Birds or Animals which have died a Natural Death.

Any person who has been authorized or licensed to slaughter in any city or town and who personally or by his agent has in his possession the dressed or plucked carcass, or part thereof, of any bird or animal which has died a natural death shall be punished by a fine of not more than one hundred dollars.

ACTS OF 1914, 634.

The Sale of Sausage Meat.

SECTION 1. For the purposes of this act, sausage or sausage meat is defined to be a comminuted meat from neat cattle, swine or veal, or a mixture of such meats, either fresh, salted, pickled or smoked, with or without added salt and spices, and cereal and the like, as provided hereinafter, and with or without the addition of edible animal fats, blood and sugar, or subsequent smoking.

SECTION 2. For the purposes of this act, sausage shall be deemed to be adulterated: —

First. If it contains any cereal or vegetable flour or any product thereof in excess of two per cent;

Second. If it contains any coloring matter, or any substance injurious or deleterious to health;

Third. If it contains water in excess of an amount sufficient to make the product palatable and to facilitate mixing and placing in casings;

Fourth. If it contains, except as a casing, the stomach or intestines or entrails, or any part thereof, except hearts, tripe and liver;

Fifth. If it contains any diseased, contaminated, filthy or decomposed substance; or if it is manufactured, in whole or in part from, or contains a substance produced, stored, transported or kept in a way or manner that would render the article diseased, contaminated or unwholesome; or if it is the product of a diseased animal or the product of any animal which has died otherwise than by slaughter.

SECTION 3. It shall be unlawful to sell or offer or expose for sale sausage manufactured contrary to the provisions of this act or adulterated within the meaning of this act.

SECTION 4. Whoever violates any provision of this act shall be punished by a fine of not more than one hundred dollars for each offence.

SECTION 5. Section nine of chapter two hundred and thirteen of the Revised Laws, as amended by chapter six hundred and fifty of the acts of the year nineteen hundred and thirteen, and said chapter six hundred and fifty are hereby repealed; but this repeal shall not affect any suit or other proceeding now pending or any liability or penalty already incurred.

ACTS OF 1914, 325.

Establishments for the Manufacture of Sausages or Chopped Meat, or for the Breaking or Canning of Eggs.

SECTION 1. The proprietor of every establishment for the manufacture of sausages or chopped meat of any kind, or for the breaking or canning of eggs, shall apply for a license to the mayor and aldermen of the city, the selectmen of the town, or, in a town having a population of more than five thousand, to the board of health, in which such establishment is situated. The application shall be in writing, signed and sworn to by one or more of the owners or by one or more of the persons carrying on such business or, if a corporation, by some authorized officer thereof, shall state the name and address of all the owners or persons carrying on said business, the situation of the establishment in which it is to be conducted and the nature of the products thereof to be sold or used for food. The board of health of a city or town may make and enforce such rules and regulations as it deems necessary for the conduct of all establishments mentioned in this act, and the license therefor may be revoked for any violation of such rules and regulations after notice to the licensee and a hearing before said board.

SECTION 2. Whoever carries on an establishment for the manufacture of sausages or chopped meat of any kind, or for the breaking or canning of eggs without a license as provided herein shall be punished by fine or imprisonment at the discretion of the court.

GENERAL ACTS OF 1915, 22.

SECTION 1. The provisions of chapter three hundred and twenty-five of the acts of the year nineteen hundred and fourteen, requiring a license for the manufacture of sausages or chopped meat, shall not apply to retail dealers in chopped meats and unsmoked sausages who manufacture the same for their retail trade.

ACTS OF 1913, 654.

The Sale and Use of Eggs unfit for Food.

SECTION 1. It shall be unlawful for any person, firm or corporation or any officer, agent or employee thereof, to sell, offer for sale, expose for sale, or have in possession with intent to sell, eggs that are unfit for food within the meaning of this act.

SECTION 2. This act shall apply to eggs which, either before or after removal from the shell, are wholly or partly decayed or decomposed, and to eggs in the fluid state, any part of which is wholly or partly decayed or decomposed, and to eggs, in the fluid state or otherwise, that are mixed with parts of eggs which are derived from eggs that are wholly or partly decayed or decomposed. This act shall also apply to frozen masses of broken eggs, if the mass contains eggs that are wholly or partly decayed or decomposed, or that are mixed with parts of eggs that have been taken from eggs that were wholly or partly decayed or decomposed.

SECTION 3. It shall be unlawful for any person, firm or corporation, or any officer, agent or employee thereof, to use eggs that are either wholly or partly decayed or decomposed in the preparation of food products. And it shall be unlawful to deliver, sell, purchase or accept wholly or partly decayed or decomposed eggs in or at any establishment where food products are prepared or manufactured.

SECTION 4. Violation of any provision of this act shall be punished by a fine of not less than ten nor more than one thousand dollars, or by imprisonment for not less than three months, or by both such fine and imprisonment.

SECTION 5. The state board of health shall enforce the provisions of this act.

SECTION 6. Nothing in this act shall be construed to prohibit the purchase, sale or possession for other than food purposes of rotten, decayed or partly decayed eggs which are unfit for food.

Acts of 1913, 538.

The Sale of Eggs taken from Cold Storage.

Section 1 (as amended by 1914, 545, and by General Acts of 1915, 55). Whenever eggs that have been in cold storage are sold at wholesale or retail, or offered or exposed for sale, the basket, box or other container in which the eggs are placed shall be marked plainly and conspicuously with the words "cold storage eggs", or there shall be attached to such container a placard or sign having on it the said words. If eggs that have been in cold storage are sold at retail or offered or exposed for sale without a container, or placed upon a counter or elsewhere, a sign or placard, having the words "cold storage eggs" plainly and conspicuously marked upon it, shall be displayed in, upon or immediately above the said eggs; the intent of this act being that cold storage eggs sold or offered or exposed for sale shall be designated in such a manner that the purchaser will know that they are cold storage eggs. The display of the words "cold storage eggs", as required by this act, shall be in letters not less than one inch in height, except that the container in which eggs sold at retail are delivered to the customer may be marked in letters less than one inch in height if uncondensed Gothic type is used, but such letters shall in no case be less than one half inch in height. All marking required by the provisions of this act shall be done in such manner as shall be approved by the commissioner of health.

Section 2. Violation of any provision of this act shall be punished by a fine of not less than ten dollars nor more than five hundred dollars for each offence.

Note. — At a meeting of the State Department of Health held on July 6, 1915, it was voted to make the following regulations relative to the marking of cold storage eggs: —

The sign or placard required by section 1 of chapter 538 of the Acts of 1913, as amended by chapter 545 of the Acts of 1914 and chapter 55 of the General Acts of 1915, to be placed upon or immediately above cold storage eggs, or upon the basket, box or other container in which cold storage eggs are placed. shall consist of the words "Cold Storage Eggs," printed in uncondensed Gothic type, in letters not less than 1 inch in height, printed in black on a white background, no other lettering to appear on or to be attached to said sign or placard. (This sign or placard to be used only where cold storage eggs are offered or exposed for sale.)

The marking required by section 1 of chapter 538 of the Acts of 1913, as amended by chapter 545 of the Acts of 1914 and chapter 55 of the General Acts of 1915, to be placed upon the container in which cold storage eggs sold at retail are delivered to the customer, shall consist of the words "Cold Storage Eggs," printed or stamped in letters not less than 1 inch in height, or, if in letters of uncondensed Gothic type, not less than one-half inch in height, in black, purple or red ink, no other lettering to appear in connection with the words "Cold Storage Eggs."

Poultry.

Revised Laws, 56.

Sale of Poultry regulated.

Section 76. Whoever knowingly sells or exposes for sale poultry, unless it is alive, before it has been properly dressed by the removal of the crop and entrails if they contain food, shall be punished by a fine of not less than five nor more than fifty dollars for each offence. Boards of health shall cause the provisions of this section to be enforced in their respective cities and towns. 1883, 230. 1887, 94.

Fish.

Revised Laws, 56.

Penalty for selling Tainted Fish for Food.

Section 25. Whoever sells within this commonwealth or exports therefrom tainted or damaged fish, unless with the intent that the same shall be used for some other purpose than as food, shall forfeit ten dollars for every hundred pounds of such fish, and in the same proportion for any other quantity; and upon a trial in such case the burden of proof shall be upon the defendant to show for what purpose such fish was so exported or sold.

1809, 120, § 3. R. S. 28, § 90. G. S. 49, § 57. P. S. 56, § 45.

Cold-storage Products.

Acts of 1910, 640.

Inspection by Boards of Health of Cold Storage and Refrigerating Warehouses.

Section 1. Boards of health of cities or towns, by themselves, their officers or agents, shall make frequent inspection of all cold storage or refrigerating warehouses used for the storage of food products, and for this purpose shall have all the powers of entry now conferred by law for purposes of such inspection.

Acts of 1912, 652.

Cold Storage of Certain Food Products.

Section 1. The term "cold storage", as used in this act, shall be construed to mean the storage of articles of food at or below a temperature of forty degrees Fahrenheit in cold-storage or refrigerating warehouses.

The term "cold-storage or refrigerating warehouse", as used in this act, shall be construed to mean an establishment employing refrigerating machinery or ice for the purpose of refrigeration, or a place otherwise artificially cooled, in which articles of food are stored for thirty days or more at a temperature of forty degrees Fahrenheit or below:

The term "article of food", as used in this act, shall be interpreted to include fresh meat, fresh meat products, except in process of manufacture, fresh food fish, poultry, eggs and butter.

SECTION 2. No person, firm or corporation shall operate a cold-storage or refrigerating warehouse without a license issued by the state board of health. Any person, firm or corporation desiring such a license may make written application to the board, stating the location of its plant or plants. On receipt of the application the board shall cause an examination to be made of the sanitary condition of any such plant, and if it is found to be in a sanitary condition and otherwise properly equipped for the business of cold storage, the board shall cause a license to be issued authorizing the applicant to operate a cold-storage or refrigerating warehouse for the period of one year. The license shall be issued upon payment by the applicant of a license fee of ten dollars to the treasurer of the commonwealth. In case any warehouse licensed under the provisions of this section or any part thereof, shall be deemed by the state board of health to be conducted in an unsanitary manner, it shall be the duty of the board to close such warehouse or part thereof, until it shall be put in sanitary condition, and the board shall have power also to suspend the license in case the required changes are not made within a reasonable time. Every such licensee shall furthermore submit a quarterly report to the state board of health on a printed form to be provided by the board. The report shall be filed on or before the twenty-fifth day of January, April, July and October of each year, and it shall state the quantities of articles of food placed in cold storage during the three months preceding the first day of the said months, respectively, and also the quantities of butter and eggs held on the first day of the month in which the report is filed.

SECTION 3. No article of food intended for human consumption shall be placed in cold storage if deemed by the state board of health to be diseased, tainted or otherwise unwholesome.

It shall be the duty of the state board of health to inspect and supervise all cold-storage or refrigerating warehouses in this commonwealth, and to make such inspection of the entry of articles of food therein as the board may deem necessary to secure proper enforcement of this act. The members of the board, or its duly authorized agents, inspectors or employees, shall be permitted access to such establishments and all parts thereof at all reasonable times for purposes of inspection and enforcement of the provisions of this act, or of any other provision of law relating to food products. The board may also appoint and designate such person or persons as it deems qualified to make the inspections herein required.

SECTION 4. All articles of food when deposited in cold storage shall be marked plainly with the date of receipt on the containers in which they are packed, or, if not packed in containers, on or in connection with the articles, except fish.

SECTION 5. No article of food shall be held in cold storage within this commonwealth for a longer period than twelve calendar months, except with the consent of the state board of health as hereinafter provided. The state board of health may, upon application, grant permission to extend the period of storage beyond twelve months for a particular consignment of goods, if the goods in question are found, upon examination, to be in proper condition for further storage at the end of twelve months. The length of time for which further storage is allowed shall be specified in the order granting the permission. A report on each case in which such extension of storage may be permitted, including information relating to the reason for the action of the board, the kind and the amount of goods for which the storage period was extended, and the length of time for which the continuance was granted, shall be included in the annual report of the board.

SECTION 6. It shall be unlawful to sell, or to offer or expose for sale articles of food which have been held in cold storage without notifying persons purchasing, or intending to purchase, the same that they have been kept so by the display of a sign marked, "Cold Storage Goods Sold Here," and it shall be unlawful to represent or advertise as fresh goods articles of food which have been held in cold storage.

SECTION 7. It shall be unlawful to return to cold storage any article of food that has once been released from such storage for the purpose of placing it on the market for sale to consumers, but nothing in this section shall be construed to prevent the transfer of goods from one cold-storage or refrigerating warehouse to another, provided that such transfer is not made for the purpose of evading any provision of this act.

SECTION 8. Broken eggs packed in cans, if not intended for use as food, when deposited in cold storage shall be marked by the owners in accordance with forms prescribed by the state board of health, under the authority hereinafter conferred, in such a way as plainly to indicate the fact that they are not to be sold for food.

SECTION 9. The state board of health may make rules and regulations to secure a proper enforcement of the provisions of this act, including rules and regulations with respect to the use of marks, tags or labels and the display of signs, and may fix penalties for the breach thereof.

SECTION 10. Any person, firm or corporation violating any provision of this act shall upon conviction be punished for the first offence by a fine not exceeding one hundred dollars, and for the second offence by a fine not exceeding five hundred dollars, or, if the offence is committed by a person acting either in his individual capacity or in behalf of a firm or corporation, by imprisonment for not more than thirty days, or by both such fine and imprisonment.

SECTION 11. All acts and parts of acts inconsistent herewith are hereby repealed.

Bread.

General Acts of 1915, 258.

Relative to the Manufacture of Bread to be sold by the Loaf.

Section 1. Bread manufactured to be sold by the loaf shall be made from one or more of the following substances: — wheat flour, rye flour, corn flour, lard, vegetable oils, butter, sugar, malt extract, corn syrup, salt, yeast, water, milk, corn sugar, cereal flakes and any other substance commonly sold at retail as food. Bread in the manufacture of which any other materials are added shall have affixed thereto a label upon which shall be distinctly and conspicuously printed in straight parallel lines of plain, uncondensed, legible type in Gothic letters not less than one fourth of an inch high, in the English language, well spaced on a plain ground, a statement indicating the presence of such other materials: *provided, however,* that no materials of any kind shall be used which are poisonous or which are injurious to health.

Section 2. Whoever by himself or by his agents, or as the servant or agent of another, violates any provision of this act shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year.

Section 3. The state department of health, boards of health of cities and towns, and their authorized agents, shall have the right to enter all bakeries and other places where bread is made or baked for sale, and may take samples of bread and specimens of all materials used in the manufacture of bread. Whoever prevents, obstructs, or interferes with the state department of health, a board of health, or any agent of the department or of any such board in the performance of its or his duties as specified herein, or hinders, obstructs or interferes with any inspection or examination authorized hereby, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year.

Baking Powders.

Acts of 1902, 540.

Baking Powders shall be labelled, showing Ingredients.

Section 1. Whoever manufactures for sale within this state, or offers or exposes for sale or sells any baking powder or mixture or compound intended for use as a baking powder under any name or title whatsoever shall securely affix or cause to be securely affixed to the outside of every box, can or package containing such baking powder or like mixture or compound, a label distinctly printed in brevier gothic capital letters, in the English language, containing the name and residence of the manufacturer and the ingredients of the baking powder, mixture or compound.

Penalty.

SECTION 2. Whoever violates any provision of this act shall be punished by a fine of not less than ten nor more than one hundred dollars for each offence.

CHOCOLATE AND CONFECTIONERY.

REVISED LAWS, 57.

Chocolate, how to be stamped.

SECTION 8. Chocolate in cakes shall be made in pans in which shall be stamped the name of the manufacturer, the town in which he resides, the quality of the chocolate in figures, "No. 1", "No. 2", "No. 3", as the case may be, and the letters MASS.

1802, 133. 1803, 54, § 1. R. S. 28, § 60. G. S. 49, § 24. P. S. 60, § 8.

Chocolate, Ingredients of. Boxes, how branded.

SECTION 9. Quality number one shall be made of cocoa of the first quality and quality number two of cocoa of the second quality, and both shall be free from adulteration; quality number three may be made of the inferior kinds and qualities of cocoa. Each box containing chocolate shall be branded on the end thereof with the word "*chocolate*", the name of the manufacturer of the chocolate, the town in which it was manufactured and the quality, as described and directed in the preceding section for the pans.

1802, 133. 1803, 54, § 2. R. S. 28, § 61. G. S. 49, § 25. P. S. 60, § 9.

Chocolate, Seizure of.

SECTION 10. If chocolate manufactured in this commonwealth is offered for sale or found and is not of one of the qualities described in the two preceding sections or marked as therein directed, it may be seized and libelled.

1802, 133. 1803, 54, §§ 3, 4. R. S. 28, § 62. G. S. 49, § 26. P. S. 60, § 10.

ACTS OF 1913, 265.

The Manufacture, Sale or Exchange of Confectionery Deleterious to the Public Health.

Whoever himself, or by his agent or servant, or as the agent or servant of another person or corporation, manufactures, sells or exchanges, or has in his custody or possession with intent to sell or exchange, or exposes or offers for sale or exchange, any confectionery containing or coated wholly or in part with terra alba, barytes, paraffine, talc, chrome yellow, or other injurious mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to the public health, shall be punished by a fine of not less than fifty nor more than one hundred dollars.

REVISED LAWS, 213.

Sale of Candy containing Alcohol.

SECTION 4 (as amended by 1913, 647). Whoever sells to a person any candy enclosing or containing liquid or syrup containing more than one per cent of alcohol shall be punished by a fine of not more than one hundred dollars for each offence. 1891, 333.

SHALL MAKE ANALYSES OF PAINT, TURPENTINE AND LINSEED OIL.

ACTS OF 1911, 218.

To require the State Department of Health to make Analyses of Paint, Turpentine and Linseed Oil in Certain Cases.

SECTION 1. The state board of health shall make, free of charge, a chemical analysis of paint, turpentine or linseed oil, or any synthetic substitute for any of the said articles, or any preparation containing the same, when submitted to it by the chief of the district police; and the board shall furnish to the said chief a certificate of the analysis, which shall be prima facie evidence of the composition and quality of the materials so analyzed.

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